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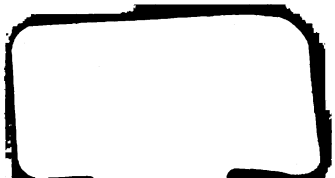

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WEST AMERICAN HISTORY

HUBERT HOWE BANCROFT

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PREFACE.

During my researches in Pacific States history, and particularly while tracing the development of Anglo-American communities on the western side of the United States, I fancied I saw unfolding into healthier proportions, under the influence of a purer atmosphere, that sometime dissolute principle of political ethics, the right of the governed at all times to instant and arbitrary control of the government. The right thus claimed was not to be exercised except in cases of emergency, in cases where such interference should be deemed necessary, but it was always existent; and as the people themselves were to determine what should constitute emergency and what necessity, these qualifications were impertinent.

Though liable at times to the grossest abuse, I found this sentiment latent among widely spread and intelligent peoples, but in a form so anomalous that few would then admit to themselves its presence among their convictions. It was a doctrine acted rather than spoken, and existing as yet in practice only, never having through formulas of respectability worked itself out in theory. Yet it was palpably present, more often as a regretted necessity, usually denounced in judicial and political circles, though clearly operating under certain conditions to the welfare of society.

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Finding on these Pacific shores, in a degree superior to any elsewhere appearing in the annals of the race, this phase of arbitrary power as displayed by the many Popular Tribunals here engendered, I pressed inquiry in that direction, and these volumes are the result. It is all history; and though herein I sometimes indulge in details which might swell unduly exact historical narration, I have felt constrained to omit more facts and illustrations than I have given. These omissions, however, are not made at random, or to the injury of the work, but only after carefully arranging and comparing all the information on the subject I have been able to gather.

And the material was abundant. Beside printed books, manuscripts, and the several journals of the period advocating the opposite sides of the question, I was fortunate enough to secure all the archives of the San Francisco Committee of Vigilance of 1851, and to obtain free access to the voluminous records and documents of the great Committee of 1856. But this was not all. Well knowing that the hidden workings of the several demonstrations could be obtained only from the mouths of their executive officers, I took copious dictations from those who had played the most prominent parts in the tragedies. From one member I learned what occurred on a given occasion at the point where he happened to be; from another, what was taking place at the same time at another point of observation; and so on, gathering from each something the others did not know or remember. By putting all together I was enabled to complete the picture of what were otherwise a conglomeration of figures and events.

At first I found the gentlemen of 1856 exceedingly

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backward in divulging secrets so long held sacred; and it was only after I had given them the most convincing assurances of the strength and purity of my purpose that I obtained their united consent to place me in possession of their whole knowledge of the matter. Often had they been applied to for such information, and as often had they declined giving it. And for good reasons. They had offended the law; they had done violence to many who still cherished hatred; they had suffered from annoying and expensive suits at law brought against them by the expatriated; they had disbanded but had not disorganized, and they did not know at what moment they might again be summoned to rise in defence of society, or to band for mutual protection. From the beginning it was held by each a paramount obligation to divulge nothing.

On the other hand the questions arose: Are these secrets to die with you? May not the knowledge of your experience be of value to succeeding societies? Have you the right to bury in oblivion that experience, to withhold from your fellow-citizens and from posterity a knowledge of the ways by which you achieved so grand a success? And so after many meetings, and warm deliberations, it was agreed that the information should be placed at my disposal for the purpose of publication.

However I may have executed my task, the time selected for its performance was most opportune. Ten years earlier the actors in these abnormal events would on no account have divulged their secrets; ten years later many of them will have passed away, and the opportunity be forever lost for obtaining information which they alone could give.

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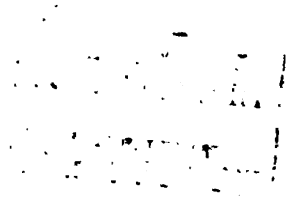

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POPULAR TRIBUNALS.

CHAPTER I.

ABERRATIONS OF JUSTICE, ANCIENT AND MODERN.

> At Halifax the law so sharpe doth deale,
> That whose more than thirteen pence doth steale,
> They have a jyn that wondrous quick and well
> Sends thieves all headless into heaven or hell.
>
> *Taylor, The Water Poet.*

POPULAR TRIBUNALS, wherein is attempted the illegal administration of justice by the people, have become quite prominent among those social paroxysms incident to rapid progress. The principle in its several phases, and as at present existing, is essentially a latter-day development. Dangerous or otherwise, it is the outgrowth of enlightenment, of intellectual emancipation. While the doctrine of the divinity of law, that is of statutory or other than natural law, held bound men's minds, there were comparatively few examples of illegal justice; but when it came generally to be felt that statutes were no more sacred than the men who made them, legal impositions and vicious technicalities were less patiently endured.

Not that antiquity was wholly without its right-compelling powers, but they were of a different order from our modern demonstrations. But neither the old nor the new were such as Plato would have chosen for his Republic, or Saint Augustine for his City of God, or

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Sir Thomas More for his Utopia, or Lord Bacon for his New Atlantis. A theorist could scarcely have concocted so paradoxical a proposition as the modern popular tribunal, and the thing was left to concoct itself.

There was government by factions in the olden time, such as in the days of Cicero and Pompey kept Rome for nearly four years in a state of anarchy. It was Clodius and his hired gladiators who did it. Even as at present, sometimes, assassins were at work; elections were tampered with, and the senate was overawed. Men talked of military rule, the thought of which was pleasing to both Pompey and Cæsar; for strange to say, when backed by strong battalions, the rival allies both loved to reign. How it would have ended it is difficult to say, had not Milo and his partisans, likewise with a patrol of gladiators, opposed and finally overthrown Clodius. But for a time, like the Capulets and Montagues at Verona, the parties of Clodius and Milo walked the streets of Rome, bidding defiance alike to governors and governed.

In feudal times almost every state had its system of secret tribunals, where judgments, most unexpectedly to the victims, were passed in darkness and executed in the light. Whereat innocent and guilty alike trembled; no one could tell when his own turn would come, or when he might be executed for he knew not what. The guilty mind was thus always on the rack, and fortunate was the offender who was not first condemned and then caught.

During the Middle Age the knights of Germany formed an independent feudal order, and threw off allegiance to any prince. Their depredations at first were not incompatible with the then existing ideas of respectability, but as they were driven into corners by the growth of towns, the order degenerated toward the close of the fifteenth century, until its members were nothing less than highwaymen. In 1522 they infested the country round Nuremberg, and took many

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prisoners. They had a fashion of cutting off the right hand of those they captured, thereby rendering them helpless in any future encounter.

There were several terms used in bygone times to denote the process of punishing first and trying afterward. There was Cowper law, due to a baron-baile in Coupar-Angus, before the abolition of heritable jurisdiction. We find also the expressions Jedburgh, Jedwood, and Jeddart justice; also Lynford law, from a fortified town of that name in Devon, where criminals were confined, before trial, in a dungeon so loathsome that no punishment could be greater.

Venice had its Council of Ten, a secret tribunal of the republic, instituted subsequent to the conspiracy of Tiepolo. It was originally composed of ten councillors, arrayed in black. Soon six others in red were added, and these together with the doge exercised unlimited power. Temporarily established at first, it was continued for a time from year to year, and finally in 1335 declared permanent. As late as 1454 we find this tribunal exercising its secret pleasure, in the name of justice, under the following arrangement: Citizens, chosen by the Council as inquisitors to execute its will, must not refuse to serve. The inquisitors might proceed against any person, no matter of what rank; they might pronounce the death sentence, or any other; they had charge of the prisons, and drew money from the treasury of the Council of Ten without question as to its use. The proceedings of the tribunal must be always secret; its members must wear no distinctive badge; no open arrests should be made, no public executions, but the condemned of the tribunal should be drowned at night in the Orfano Canal. The relatives of the escaped offenders should be punished; any offensive official might be secretly assassinated. This happy state of things continued until the fall of the republic, in 1797.

In France there were the Council of the Ancients, and the Council of Five Hundred, and in Spain the

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Council of Castile; but these, and many others similar, were bodies advisory of the government, and acted in that capacity, or subject to the regulations of the government, and not in antagonism to it.

Aragon and Castile boasted their Holy Brotherhood, and for centuries their sovereigns smiled on its important services. In Spain, during the thirteenth and fourteenth centuries, along the line dividing the hostile Goth and Arab, the frontiers of both Spanish and Moslem domination, law was impotent and anarchy mightier than kings. The towns were obliged to league for mutual protection. Associating under the name of *Santa Hermandad*, or Holy Brotherhood, they levied contributions for their support, and organized troops for service. They protected travellers, pursued criminals, and appointed judges who paid little heed to what the lord of the domain might think of it, or to his laws or jurisdiction. They scoured the mountains for robbers, and caught, tried, and executed them after their own fashion for many scores of years. But here, also, the king gave both favor and support to the association.

The Vehmgericht of Westphalia has been held up as an institution of which the present popular tribunal is a representation; but there is little in common between them, either in letter or in spirit. The Vehmgericht was a secret tribunal, established for the preservation of the true faith, the promotion of peace, and the suppression of crime. All its doings were enveloped in mystery. Its secret spies penetrated to the remotest corners of Germany, its judges were unknown, its judgments were swift, and their execution was certain.

Scotland once gloried in a sort of lynch-law, called burlaw, from the Dutch *baur*, a boor, or rustic. In the rural districts the people made certain laws to suit emergencies, and appointed one of their number, called the burlaw-man, to see them executed. Two and a half centuries ago there was what was called Halifax

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law, which committed thieves for execution to the Halifax gibbet, which was a kind of guillotine. Robespierre proposed a decree which, in 1793, established a Committee of General Security, exercising power superior to the convention. To this was auxiliary the Committee of Public Safety, of which Robespierre likewise was a member.

An incident is mentioned by M. Huc, which happened during his journey through the Chinese Empire in company with certain Catholic priests, which shows how easily intimidated are the subordinates of arbitrary power by a counter display of like pretended power. A Chinese Christian, Tchao by name, zealous in his regard for the spiritual fathers thus unexpectedly visiting the country, sent the travellers a present of some dried fruit, accompanied by a letter. A military mandarin, overwhelmed with curiosity, secretly opened the package and attempted to read the letter, but was caught in the act. The missionaries, who were travelling under protection of the emperor, clamored loudly over the insult. They demanded that Tchao, whom the prefect had ordered imprisoned as a disturber of the peace for having thus communicated with the travellers, should be brought before them for trial; and two foreigners, if we may credit their story, did actually so frighten the magistrates that they yielded their place in the tribunal, and permitted the missionaries to try and to acquit the prisoner.

England in Anglo-Saxon times found a necessity the witena-gemót, or great national council, by which the king's title must be recognized and his acts regulated, and to which all courts of justice were subservient. When abolished by William the Conqueror, its powers were transmitted to parliament only in part.

Such are some of the prominent examples of history which at various times, and by men not the most thoroughly familiar with the subject, have been compared with the modern Committee of Vigilance, which

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in its higher aspect is the highest form of the popular tribunal. If antiquity can furnish us no more pertinent illustrations than these, then we are safe in saying that nothing exactly similar to our present popular tribunal was known to the ancients. If nothing of the kind can be found in Europe, then to America must be given the honor or odium of it. In all the cases cited there is something of government by faction, or of military rule, or of rebellion against the powers that be, or of secret or open tribunals acting under law, or of legally sanctioned aids to government, or of revolution, civil war, or highway robbery. Now whatever our popular tribunal may be, it is none of these; it has no such ingredients in its composition.

As we approach the time of Lynch and lynching, we come nearer our present development, but we do not quite reach it even then. As to the origin of the term lynch-law, opinion is divided. There was in 1493 a mayor of Galway, Ireland, named James Fitzstephens Lynch. He was in the wine trade, and received cargoes from Spain. Thither he once sent his son with money to buy wine. The son squandered the money, but purchased a cargo on credit. A nephew of the Spanish seller of the wine accompanied young Lynch on his return voyage, for the purpose of receiving pay for the wine on reaching Ireland. To hide his defalcation, before reaching home Lynch threw the Spaniard overboard. In time information of the son's crime reached the father's ear. The young man was tried and condemned, the father being judge. The family interfered to prevent the execution; but the father, lest the ends of justice should be defeated, with his own hands hanged him from a window overlooking the street. Hence, as some say, the term lynch-law. Others refer the honor to the founder of Lynchburg, Virginia; yet others to a Virginia farmer, named Lynch, who once whipped a thief instead of delivering him to the sheriff. In 1687 one Judge Lynch, to suppress piracy which was

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ruining commerce in American waters, is said to have executed justice summarily, regardless of forms of law. Another account makes John Lynch, a native of South Carolina, the judge. This man followed Daniel Boone to Kentucky, where he was chosen chief of twelve jurors to try causes informally. Which, if any, of these accounts is correct is a matter of small moment. What we are to understand at present by the term is what chiefly concerns us. When the Piedmont country of Virginia was the backwoods of America, without law, summary executions were common; and the accident which applied the term Lynch to illegal executions will never positively be known. Whatever else it was, in its original use it was not a term of reproach, but a mark of the high character and moral integrity of the people.

It was on the western frontier of the United States, and during the last half century, that the popular tribunal in its broadest proportions was reached. All that time and before it, beginning just back of the English plantations, this frontier had been shifting, extending farther and farther to the westward, until the valley of the Mississippi was reached. Upon this border, as upon the edge of mighty fermentations, accumulated the scum of the commonwealth. The spirit of evil was ever strong, and government was weak. Society there was low and brutal, and the lynchers were not always much better than the lynched. After Missouri and Arkansas for a time had constituted the frontier, a leap was made by war and western progress to California, and the popular tribunal, seemingly purified by the passage, settled upon the newly found gold-fields. Here, at the Ultima Thule of western migration, the institution found itself in an element totally different from any it had ever before enjoyed. The people were active and able; many of them were educated and intelligent; most of them were honest. But there

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were some rogues present, else enginery for punishment had never been required. It was then that the popular tribunal assumed respectability and took a new name. The somewhat besmeared terms mob-law, lynch-law, and the like, were discarded, and the more pleasing titles of Regulators, Committee of Safety, and Committee of Vigilance were adopted.

In Nevada, Utah, Montana, and Idaho, in all frontier settlements, before the machinery of territorial legislatures and law courts was in working order, before laws were framed or executed, a tribunal formed of citizens was found necessary to prevent wholesale robbery and murder. Order-loving men, as were they who composed these tribunals, were backward enough in assuming the unwelcome duties, usually taking no steps to organize until after a score or two of murderers had escaped punishment. Each new western state, as it began to be settled, attracted thither villains of every dye, who kept the community in constant fear until it purged itself by the swift and sure executions of moboeracy or vigilance committees.

What then has the popular tribunal here become? What is a vigilance committee, and what mobocracy? The terms vigilance committee, mob-law, lynch-law, are not, as many suppose, synonymous. In some respects they are diametrically opposed in principle and in purpose. The vigilance committee is not a mob; it is to a mob as revolution is to rebellion, the name being somewhat according to its strength. Neither is a tumultuous rabble a vigilance committee. Indeed, prominent among its other functions is that of holding brute force and vulgar sentiment in wholesome fear. The vigilance committee will itself break the law, but it does not allow others to do so. It has the highest respect for law, and would be friendly with the law, notwithstanding the law is sometimes disposed to be ill-natured; yet it has a higher respect for itself than for ill-administered law. Often it has assisted

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officers of the law in catching offenders, and has even gone so far as to hand insignificant and filthy criminals over to courts of justice for trial rather than soil its fingers with them.

The doctrine of Vigilance, if I may so call the idea or principle embodied in the term vigilance committee, is that the people, or a majority of them, possess the right, nay, that it is their bounden duty, to hold perpetual vigil in all matters relating to their governance, to guard their laws with circumspection, and sleeplessly to watch their servants chosen to execute them. Yet more is implied. Possessing this right, and acknowledging the obligation, it is their further right and duty, whenever they see misbehavior on the part of their servants, whenever they see the laws which they have made trampled upon, distorted, or prostituted, to rise in their sovereign privilege and remove such unfaithful servants, lawfully if possible, arbitrarily if necessary. The law must govern, absolutely, eternally, say the men of vigilance. Suffer inconvenience, injustice if need be, rather than attempt illegal reform. Every right-minded man recognizes the necessity of good conduct in human associations, to secure which experience teaches that rule is essential. In a free republican form of government every citizen contributes to the making of the laws, and is interested in seeing them executed and obeyed. The good citizen, above all others, insists that the law of the land shall be regarded. But to have law, statutes must be enacted by the people; governments must be administered by representatives of the people; officials, to be officials, must be chosen by the people. Law is the voice of the people. Now it is not the voice of the people that vigilance would disregard, but the voice of corrupt officials and bad men. Law is the will of the community as a whole; it is therefore omnipotent. When law is not omnipotent, it is nothing. This is why, when law fails—that is to say, when a power rises in society antagonistic at once

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to statutory law and to the will of the people—the people must crush the enemy of their law or be crushed by it. A true vigilance committee is this expression of power on the part of the people in the absence or impotence of law. Omnipotence in rule being necessary, and law failing to be omnipotent, the element here denominated vigilance becomes omnipotent, not as a usurper, but as a friend in an emergency. Vigilance recognizes fully the supremacy of law, flies to its rescue when beaten down by its natural enemy, crime, and lifts it up, that it may always be supreme; and if the law must be broken to save the state, then it breaks it soberly, conscientiously, and under the formulas of law, not in a feeling of revenge, or in a manner usual to the disorderly rabble.

Surely vigilance has no desire to hamper legislation, to interfere with the machinery of courts, to meddle in politics, to alter or overthrow the constitution, or to usurp supreme authority. Its issue is with the mal-administration of government, rather than with government itself. Its object is to assist the law, to see the law righteously executed, to prevent perversion of the law, to defeat prostitution of the law, and not to subvert or debase the law. And to accomplish its purpose, it claims the right to resort to unlawful means, if necessary. Therefore it is easy to see that the vigilance principle does not spring from disrespect for law. Wherever law has been properly executed there never yet was a vigilance committee. The existence of a vigilance organization is *a priori* proof of the absence of good government. No well-balanced, impartial mind will condemn the existence of a vigilance committee in the absence of properly executed law; no right-thinking man will for a moment countenance a vigilance organization, could such a thing be, in the presence of good laws, well executed.

Thus defined, the principle of vigilance takes its place above formulated law, which is its creature, and is directly antagonistic to the mobile spirit which

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springs from passion and contemptuously regards all law save the law of revenge. While claiming the full right of revolution, it does not choose to use it, because it is satisfied with the existing forms of government. I do not like the term *imperium in imperio*, so often applied to it. Vigilance is the guardian of the government, rather than a government within a government. This, then, is vigilance; the exercise informally of their rightful power by a people wholly in sympathy with existing forms of law. It is the same inexorable necessity of nature which civilization formulates in statutes, codes, and constitutions under the terms law and government, but acting unrestrictedly, absolute will being its only rule. The right is claimed by virtue of sovereignty alone. Under nature man is his own master. As God cannot make a being superior to himself, so society cannot establish rules for its convenience which the central power or majority of the people have not the right at any time or in any manner they see fit to disregard or annul.

Moreover, between the terms mob-violence or lynch-law and vigilance committees there is this further distinction: they are often one in appearance, though never one in principle. Often the same necessities that call forth one bring out the other; though in execution one is as the keen knife in the hands of a skilful surgeon, removing the putrefaction with the least possible injury to the body politic, the other the blunt instrument of dull wits, producing frequent defeat and disaster. The mobile spirit is displayed no more in a respectable and well-organized committee of vigilance than in a court of justice. There is no more resentment, no more furious desire to destroy a hated object in the one than in the other. Scrutinize as you will the character and conduct of the higher of these tribunals, and you fail to discover any of the elements of an uncontrolled mob. Time enough they take for deliberation, time enough for conscience and duty to be fully heard; then, with the sacred principles of truth

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and justice before them, feeling that the eye of their maker and of all mankind is upon them, their minds made up, they act with cool, determinate courage.

Again, although vigilance and mobocracy have in principle little in common, they are sometimes found assuming much the same attitude toward law and toward society. Both set up their will in opposition to legally constituted authorities; both break the law, bid defiance to the law, and if it still stand in their way, snap their fingers in the face of law. The object of their members in associating is that they may be stronger than the officers of the law; in the eyes of the law both are equally criminal, both are banded brawlers, murderers, traitors. Both tyrannize tyranny, rule their rulers, and become a law unto themselves. Yet there are these further differences between them: One aims to assist a weak entrammelled government, whose officers cannot or will not execute the law; the other breaks the law usually for evil purpose. One is based upon principle, and the other upon passion. One will not act in the heat of excitement; the other throws deliberation to the wind. One is an organization officered by its most efficient members, aiming at public well-being, and acting under fixed rules of its own making; the other is an unorganized rabble, acting under momentary delirium, the tool, it may be, of political demagogues, the victim of its own intemperance. Underlying the actions of the one is justice; of the other revenge. This constitutes the difference, and by this standard we may distinguish one from the other; wherever we find a body of armed members of the community acting contrary to law or in opposition to officers of the law, be it composed of the best citizens or the worst, be its existence a necessity, its acts productive of social well-being, or otherwise, if it is an organized band, acting under fixed rules, acting with coolness and deliberation, with good intentions, determined to promote rather than to defeat the ends of justice, such a body is what upon the Pacific

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Coast has become to be known as a Committee of Vigilance. Though it may have the same object in view, and though it may accomplish the same results, if the body or association be not organized or officered, if it be without constitution, by-laws, rule, or regulation, acting under momentary excitement or in the heat of passion, careless of the administration of justice, swayed only by resentment, intent on making a display, infuriate, unreasonable, vengeful, it is a mob, though composed of doctors of divinity.

It was interesting to note when President Garfield was assassinated how many staid, respectable citizens, how many officers of the government, how many women and clergymen, were in favor of taking Guiteau from prison and tearing him in pieces. That was the spirit of mobocracy, a spirit which the true vigilance committee frowns on and is the first to put down.

Thus we see that in this display of the arbitrary administration of justice, where some indeed may think they perceive the *morto popolarmente* of Machiavelli, there are many aspects, not all alike commendable or condemnable. In its highest and most perfect state, its object is to preserve the sanctity of morals, and to vindicate the supremacy of law by the overthrow of lawless law-makers and legally appointed official swindlers, together with the just punishment, after dispassionate examination, of felons who were shielded rather than punished by the subverting and inefficient execution of the law. From this high moral standpoint the modern popular tribunal descends in its severalities through every grade of mingled equity and imposition, until in its consequences it sometimes sinks into the fostering and extenuating of mob-violence, the prostituting of public morals, disrespect for statutory law and stable forms of government, into popular rather than just prosecutions, informal and unfair convictions, barbarous butcheries and public assassinations, and an ever increasing thirst for the blood of victims—in a word, into the

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lowest forms of mobocracy. Such are some of the differences between intelligent and high-minded vigilance organizations, whose acts have been carefully considered and conscientiously performed, and the blood-drunken orgies of frontier lynch-law executions.

The Englishman Wyse, writing of America in 1846, failed to discover in the highest and purest popular tribunal aught else than the preposterous claim of the low, ignorant, and irresponsible rabble to the control of the government. This is scarcely to be wondered at when we see how easily even error and injustice become things too sacred to be tampered with when enshrined in law. There are few instances in America where a mob has sought to usurp the government.

Mr Wyse does not state the case fairly. A mob composed of a majority of the people, as he puts it, is not a mob. I say, a majority of the respectable, intelligent, order-loving, and law-making portion of the people is not the *mobile vulgus*, or movable common people, by which name from time immemorial a disorderly crowd convened for riotous purpose has been known. Nor did I ever hear of a riotous majority of any people claiming the right to overthrow their own laws for evil purpose, and wage illegal warfare against themselves and to their own destruction. Mobs are not composed of individuals calmly associating for the purpose of self-sacrifice for the benefit of the community, but rather for those who would sacrifice the community for self. Government under the banners of liberty and progress is as strong as the people constituting it, and never by any possibility can it be stronger until the people go back to their ancient superstition. The government of the United States, in its fundamental principles, Mr Wyse calls weak, because founded on the vacillating will of the people. This is fallacy. Only the strong and intelligent can live together under a so-called weak government. In becoming strong and

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intelligent, men invariably emancipate themselves from the tyrannies of form. I fail to perceive how a government, whose principles are deep-rooted in the hearts of strong men, can be inherently weaker than one overawed by ancient superstitions. The mobs and riots of old countries are usually for the attainment of some real or imaginary right denied the people by their rulers; those of new communities spring mainly from the failure of rulers to execute the laws. Particularly has this been the case on the frontier of the United States, although wranglings over African slavery and free-love religion have sometimes been attended by riotous demonstrations. As a rule, however, the people of the great republic are and have been satisfied with their laws, and only wish to see them properly enforced. After a senseless tirade against the United States, "in whose social and political system were deep-seated and early sown the seeds of angry discord, of turbulence and crime," Mr Wyse admits "that there may be some excuse, in the absence of law, for men to adopt some rule for their own preservation," which is all the right ever claimed by our system of vigilance. And those of our own people who cry against vigilance committees and call them mobs, their members rioters and insurrectionists, their acts rabble justice, and their executions murder, were it not better they should turn their attention to the root of the matter and rectify the necessity that engenders them? Strip from law its trammels, its hypocrisy, humbug, and technical chicanery, and mete the evil-doer quick and certain punishment, and the sombre shadow of vigilance will no more darken our portals. It is a standing reproach, both to the intelligence and to the integrity of our lawmakers and our law-ministers, that a moneyed criminal, by extra-judicial strategy on the part of hired advocates, and a species of legal legerdemain, can so successfully thwart justice and escape punishment.

Before there can be any step taken toward moral

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reform, the moral sense of the community must be awakened. Seldom is the moral sense raised against a bad man, even, until he commits some crime such as the law takes cognizance of and openly points out as bad. To detect crime without the aid of law must be yet more difficult. What shall we say then, what must be the state of things, the provocation, when in a community of law-loving men not given to prudishness in morals, not given to jealousy of their rulers, dormant moral sense is so roused as to single out crime, and to seize and strangle it despite of awe-inspiring law, and in direct antagonism to officers of the law? Here we see law restraining law-makers in their virtuous efforts and shielding the lawless. This interference of government in personal affairs, protecting a man against himself while failing to protect him against others, is one of the anomalies of our political system.

It is to the San Francisco Vigilance Committee of 1856, as distinguished from any other popular uprising in California or elsewhere, that the principle of vigilance owes its incarnation and recognition; for it is a recognized principle on these Pacific shores, if nowhere else; it is here a common law of the land. Its existence as a principle is due to that occasion, though its origin was elsewhere, because the leaders of that movement first raised it to and recognised it as a principle. Law-breakers and law-exterminators there have been many; but never before in the history of human progress have we seen, under a popular form of government, a city-full rise as one man, summoned by almighty conscience, attend at the bedside of sick law as having a right there, and perform a speedy and almost bloodless cure, despite the struggles of the exasperated patient.

There have not been wanting those of extreme views to come forward and claim, even, that to this movement of 1856 jurisprudence owes a new principle, morality a new standard, and mind a new departure.

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If in the forces regulating human activities the movement means anything, it points significantly to a moral and beneficial human power superior to the power formulated and restricted by constitutions and statutes. If the movement means anything, if it accomplished anything, if its results remain to-day treasured in the storehouse of valuable experiences, it points significantly to a morality superior to that of fashion, and to the freeing of mind from another of its fetters. In social ethics room must be made for the principle of vigilance, and governments must be taught to recognize it. So some believe; but it is the tendency of the undisciplined mind to fall into excess. The principle is always existent, in greater or less degree, in all progressive peoples; its presence here in higher and holier proportions than ever elsewhere displayed is all we can justly claim for it.

Memphis, Tennessee, with its men of mighty beards, of cowhide boots and bowie-knives, was once famous as a boat-landing where captains stopped to hang offending travellers. In South Carolina many years ago the colonists rose and drove out the unprincipled Seth Sothel, who had misruled them for six years. Texas had its Regulators and Moderators, corresponding somewhat remotely to our Vigilance Committee, and Law and Order party, and in the country adjacent to the Sabine River, between 1838 and 1841, they often met in deadly encounter. Kangaroo courts is a later name for the lynching tribunals of this quarter, so designated from the attitude in which the judges fling themselves upon the grass round the culprit.

During the days of boat-and-mule transit crime was prevalent on the Panamá Isthmus. On the robbery of a specie train, in September, 1851, the people of Panamá declared strongly in favor of a vigilance committee organization for the purpose of clearing the Isthmus of highwaymen.

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In the early days of June, 1858, a vigilance committee was organized in the city of New Orleans, a disturbed and revolutionary condition of society, similar to that which prevailed in San Francisco in the memorable era of 1856, seeming to render the movement necessary. The municipal offices were in the hands of corrupt and unscrupulous politicians, and ruffians ruled the day. An allopathic dose of vigilance was undoubtedly demanded by the exigency of the case, and the citizens undertook to administer it after the swift and bloody formula that had been adopted by the young city at the Golden Gate. The affair struck the citizens of so old a society as New Orleans with alarm, and for a time excitement ran high. After some manœuvring the mayor surrendered control of affairs into the hands of the committee, but for some reason the organization failed to work any material good to the community. The movement was charged upon the American party as a political stratagem—at any rate, after a few days of feverish uncertainty the committee disbanded without having performed any labor further than forcing the mayor to swear in the members of the committee as an extra police force. The city election transpired on the 7th of June, and the result did not seem to indicate that the Vigilants, as I shall take the liberty of calling the men of vigilance, were sustained by the people.

The Spaniards in Mexico knew little of popular tribunals, breaking the law for their own benefit almost at pleasure in early times, and later plotting the downfall of the existing government rather than rallying to its aid. British Columbia has witnessed few unlawful demonstrations on the part of the people, law always having been strong on the Fraser, and punishment sure. Other British colonies have not been so fortunate.

Notwithstanding the well-organized colonial government existing previous to and at the time of the discovery of gold in Australia, lynch-law was soon ram-

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pant in the Victoria gold-fields, which at first were beyond the immediate influence of the government. The same causes led to the reign of terror there, as Chief Justice A'Beckett called it, that are found in most new settlements—laxity of law and inexorable necessity. With uplifted hands and horror-stricken visage, the English immigrant, having in reverence the wigs and woolsacks of his native island, cries: "God forbid that I should so profane the law." Yet when his cabin is robbed, and there is no minister of justice at hand, he soon learns to catch and hang a thief with as hearty a good will as ever bushman struck boar.

A vigilance committee organized at Sydney, in order to avoid the stigma attached to the term in mother countries, proposed to call the association the Private Watch. This euphemism, adopted for the benefit of sensitive conservatives, did not meet the approval of the community. Here is what the *People's Advocate* of New South Wales says of it, February 19, 1853:

"We would recommend the good-hearted fellows who are starting this movement to take the name which has already acquired for its efficiency a world-wide celebrity; a name which has thoroughly purged a great country of its imported vagabonds, and struck terror into the hearts of ruffians who had braved the tyranny of penal settlements and every punishment which the law could suggest. There is a meaning attached to the name of the vigilance committee which will carry some weight with it when the Private Watch would be looked upon with contemptuous ridicule. It is unnecessary to remind people of the origin of the vigilance committee; the whole world knows it, but of its effects few people are fully aware who have not been in California. Both before its appointment and after its suspension midnight murderers paraded the streets in defiance of the law. Fire-raising was held to be an almost unpunishable offence, because of the difficulty of its detection and the weakness of the arm of constituted authority. It was one of the subsidiary stratagems of the Van Dieman's Land and Sydney thieves. Gambling-houses were kept open at all hours of the night; no hand was uplifted, no voice raised to smite their iniquity. The foul toadstools were suffered, untrampled upon, to pollute society with their pestilential presence, until they became not only hideous deformities, which gambling-houses under any restriction must be, but until their iniquity became so great that they were the avowed and recognized harbors of refuge for murderers, robbers, thieves, and every vicious wretch who chose to avail himself of their sanctuary. Constables were defied; every

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attempt to suppress the common villainy by ordinary means failed. Necessity for mutual protection had at length recourse to the memorable expedient of appointing among themselves a committee of the citizens to detect and punish crime; and these men, taking to themselves the memorable name of vigilance committee, almost instantaneously crushed the atrocious hydra. The very name of that committee terrified the ruffians who previously triumphed over society. Their haunts were broken up, their infamous organization was prostrated, and peace at once restored by the expulsion of the scoundrels who are now in Sydney, and against whom we are called upon to act. Robberies of the person are becoming frightfully prevalent, and detection extremely rare; life and property are without protection of any kind, and the whole city is at the mercy of numerous bands of experienced thieves and cutthroats. Under such a fearful state of disorder, it behooves the citizens to bestir themselves; for if they do not protect themselves, there appears to be no disposition on the part of the Executive to do anything in their behalf. It has therefore become imperative on the inhabitants to organize a vigilance committee for the city. Small bands of volunteers, armed with revolvers, will purge Sydney of her miscreants. We have no hesitation in saying that within a month every villain now at large would be lodged in gaol, or otherwise disposed of so as to be no longer an object of fear or a source of alarm. A vigilance committee for Sydney will be not only necessary, but effectual, and its very name will strike where its arm cannot reach."

Thus in new and intelligent communities, whencesoever their origin and wheresoever situated, we see appearing, as it is needed, this principle of Vigilance, which like a benignant deity delivers its votaries from evil and destruction.

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CHAPTER II.

POPULAR TRIBUNALS AND POPULAR GOVERNMENT.

Vigilantibus, non dormientibus, servit lex.

Of all the classical abnormities that characterized the gold-gathering age of California, popular tribunals were the most startling. As long as the aberrations of society were confined to individual members, or appeared only in business, religious, or domestic affairs; as long as causations were easily traced and results tacitly accepted, social and commercial irregularities, such as undue dissipation, suicide, fires and failures, speculation, gambling, and gold-digging, soon became to be regarded as part of the new economy incident to the new life and its strange environment. Even a murder, now and then, or in the mines a hanging scrape, was not an object of alarm. Every man carried a pistol; whiskey was fiery; shooting was easy; and it was no wonder that now and then a man was hurt.

But when crime assumed giant proportions, overshadowing commerce, intercourse, and industry, and when the whole community rose as one man to put it down, the attitude of affairs seemed somewhat alarming. What was it, this mighty power so suddenly appearing at this juncture? In our indifference to tradition, and our wanderings from ancient ways, we had cut loose from many of the fashions and formalities which we had been taught were essential to safety. But here was something that seemed to strike at the very foundation of our social structure,

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and which must shiver the fair proportions of that free government which all along the centuries mankind had been chiselling into form and comeliness. Were we prepared to try anarchical experiments, to throw our young communities into a state of social chaos, and abide the result? Might not so sweeping a principle bring perdition?

Many thought of these things who never thought before. Many asked for the first time: What is law, what government? Are our forms, our constitutions, our statute-books, and our tribunals, however entangled they may become, are they too sacred for popular touch? Or if, through our own folly or neglect, the administration of laws, with the construction and intention of which we are content, falls on incapable, unjust, or iniquitous men; and if these men, for their further enrichment or advancement, weave round themselves such a web of legal technicalities and statutory subtleties as with perjuries, ballot-box stuffings, and assistant hirelings to secure them in their positions, must good citizens forever refrain from laying hands on these Lord's Anointed?

There are men high in intellect and education, who hold that a law once formally made by the people, cannot rightly be altered or disregarded by the people except through legislative process. In the law itself, and in the creating of it, they say, is the tacit agreement of the people that they will not override or overrule it but by formulas similar to those that brought it into force. They make a law for the punishment of those who break a law. All must abide by the compact, no matter what the injustice or emergency. It were sacrilege otherwise. And yet these same persons will tell you that the people are supreme.

Now if the people are supreme, they cannot create a power superior to themselves and still remain supreme. They cannot bind themselves to one another in fetters so strong that all together, or the

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ruling majority, cannot instantly break them. If the Almighty establishes an edict or enters into a compact which he cannot immediately annul, he is no longer almighty. It may be righteousness that rules him, but he is ruled. However this may be, all the supreme powers we are cognizant of make and break at pleasure.

Ask a jurist if it be right ever under any circumstances to break a law, and turning from his book he will answer you, "I find it nowhere so written." Ask him if statutes and constitutions are superior to nature and necessity, and the reply is, "The law of the land shall stand forever, or until it be legally annulled or changed; else there is no security, no safety, nor happiness or progress; else all is confusion, chaos, a whirl of anarchy and annihilation. Atoms cannot hold together without law; no more can individuals." With heart and mind still unsatisfied, in your conscientious distress to know the truth, go to the divine, to him who represents the power behind human forms, and put the question; and he reads you likewise from his book, "Be subject unto the higher powers; the powers that be are ordained of God." Ask him if the powers for evil are ordained of God, and he stands before you dumb with indignant astonishment at your unhallowed impudence. Now we the people, who are neither jurist nor divine, we would say that if Ned McGowan, Murray, Terry, and others with whom in due time I will make the reader acquainted, were ministers of justice ordained of God, then God ordained some very bad men judges in California, and happily he ordained a people to rise and drive them out. "I know of no higher power than the constitution of my country," exclaims John B. Weller in a burst of anti-vigilance patriotism—which was unfortunate for Mr Weller. The constitution is a very good thing, an implement by which to regulate delegated social force, for which I entertain profound respect, and before which I am

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prepared to bow in company with all good men who thus recognize the necessity of yielding some portion of their individual will for the benefit of the whole. I respect likewise the steam-engine that carries me ten miles more quickly than I can walk one. That the people can create a power higher than themselves is a palpable absurdity, which it is idle to discuss.

Ask a jurist his opinion of vigilance committees, of the morality of such movements, more particularly of the San Francisco Vigilance Committee of 1856, that being the representative organization of popular tribunals in the Pacific States and the only one of which there is much general knowledge, and the answer will be: "Had the people been as ready to assist the law as they were to disregard it, there would have been no necessity for a committee of vigilance." Ask him if, with venal judges, knavish custodians of public prisons, and an atmosphere rank with political corruption pervading courts of justice, it were possible for the people to assist law to the successful punishment of crime, and the answer will be: "Had they done their duty at primaries, at the polls, as jurors, as citizens of the commonwealth, there would have been no corrupt officials or foul political airs." Press him further, and ask if, with shoulder-strikers reigning in every ward, with ballot-box stuffers ruling elections, with professionals as jurors, witnesses, and bondsmen, and magistrates who feared the roughs far more than God or good men, it were possible for the people to do fair duty as citizens, and the answer will be: "It was their own fault, and by reason of their neglect of duty alone that all these evils had come upon them." Pump until doomsday and this is all we shall get from the deepest wells of legal or religious lore.

A century or two ago and this would have been sufficient, but it is not so now. We cannot but feel, though in the presence of august book-magnates who have garnered the experience of the ages, and upon whom has fallen the spirit of omnipotent intelligence,

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that we mean one thing while they refer to another. We cannot but feel that these our teachers are either stupidly or wilfully blind; that either they will not see the new light which renders transparent the old tricks of bigotry, or, beholding, they can only stop and stutter. Instead of answering they evade the question, just as in the practice of their profession they too often feel in duty bound to prefer jugglery before justice.

The time has come when the instructors of progressive peoples must fortify their time-honored positions or abandon them. Thoughtful men are no longer satisfied with artificial enlargements, thick-soled shoes, and cunningly contrived masks, such as the Greek actors employed in increasing their stature and the volume of their voice.

The gods themselves once so complained. When ancient rationalists first questioned the existence of the Olympian deities, Jupiter was in heroics; heaven shook with his wrath. "Men are actually discussing," he roared, "whether they shall hereafter worship at all." "It is all your own fault!" exclaimed Momus, the jester of the Olympian conclave; "the gods have brought the trouble on themselves through a neglect of their duties." And Momus is right. For a lying press, for iniquitous politicians and an ignorant pulpit, for the absurdities of fashion and the injustice of society, for prostitution, for gambling, for thieving, for the knaveries of the scheming capitalist, the grindings of monopolists, and the swindlings of corporations, the people have only themselves to blame, for all these enormities spring from the people and exist only on the sufferance of the people. And as he is as lawless who disregards law as he who overthrows it, so he is as immoral who fails in his political duty as he who breaks some social conventionality. It is a common and foolish fashion to denounce government for evils rooted in the people.

I admit that the people of San Francisco did not

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their whole duty as citizens; that, absorbed in their money-gettings and careless of the city's future, they avoided the polls and shirked public responsibility.

But this is not the question. Americans and others, both before and since the time of which I write, have been guilty of like neglect. Adulterated as has been the stream of our progress by enfranchising low foreigners and white-washing ignorant Africans; prostituted as are our politics by charlatans and demagogues, both native and imported, the polls and public duty offer few attractions to one whose pride is enlightened liberty alone, and who abhors villainy even when found under the guise of patriotism. The deep abasement of our once so highly prized prerogatives, however, offers no excuse for the neglect of distasteful duty. That the wicked rule is reason all the more that the righteous should rally.

Yet another cause existed of the indifference in public affairs manifested by the people of San Francisco during the city's infancy, which was the feverish and unstable character of the community. It is safe to say that prior to 1855 one fourth of the resident population of San Francisco changed every year; and that of those constituting the Vigilance Committee of 1856, not one in ten had belonged to the Committee of 1851. People were constantly coming and going, settling and selling out. All was confusion; few thought of or cared for the welfare of the young metropolis. Hence, if the way to determine the right or wrong of the action of the people of San Francisco who in 1856 organized themselves a popular tribunal above and independent of law be in casting blame on some one, on whom shall it rest? On those who wintered there in 1853 or 1855, or on those who happened to be citizens in 1856?

Again, men will not display the same zeal and activity in public as in private affairs, at least until public affairs are conducted more as are private affairs. They will not volunteer as readily and persevere as

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faithfully when called to assist the authorities, as when acting independently under their own organization. We are all of us so constituted that in order to accomplish anything well there must be enthusiasm. This absent, and man is but a machine, and a very poor one. It was hardly to be expected that the workers of San Francisco would leave with alacrity their shops, their benches, their banks, and their counting-houses to perform duties which they had already paid public servants to do. More particularly would this feeling prevail in the absence of confidence that, when they had spent their time and money in the public service, in hunting criminals and delivering them to the authorities, speedy and impartial justice would be meted. Action springs from anticipation of success; enthusiasm languishes under repeated disappointments.

But what kind of logic is this of our masters? Whoever before thought of determining public policy by flinging odium on generations gone by? For such were the rapidly revolving years of this pregnant epoch, each a generation, if counted by changes and events. It is as if the shipwrecked mariner imploring assistance from the shore should be told: "Had you not put to sea in a leaky vessel you would not now need help;" or as if a physician called to administer to a sick person should answer: "Had your grandfather obeyed the laws of nature you would have no need of medicine." The question was not what might have been done under other circumstances, but what should these citizens of San Francisco do now; what was right for them to do, who by reason of their own fault, or the fault of those who had been citizens before them, had come to political grief, and now saw crime grinning destruction upon them.

What says society in other exigencies where the law is impotent or wilfully neglectful? How stands the matter in regard to the husband who slays the destroyer of his wife's honor, or the father who kills

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the betrayer of his child? They break the law; the law frowns; but there is not a court in America that will capitally convict them. They do murder; but no jury will adjudge them to death, and no judge dare do it. Acting as we do, we might as well look this subject squarely in the face, and then acknowledge, like men, that there is a power, omnipresent, behind and above law, and of which legal forms are but the imperfect expression. This does not degrade law, and is no attempt to abrogate it. The law is the implement of the supreme power for the accomplishment of a purpose. If it works well, it is for the benefit of the people; if ill, it must be repaired or thrown aside. If this can be done formally, by edicts, legislative enactments, sheriffs, judges, and the like, so much the better; if not, then the ultimate power must do it informally, and in its own way. It is perhaps too great a strain on human nature to expect those who live by the law to admit that under any circumstances the law may rightly be broken. What do we say of the man who makes his rule of conduct in life his master and not his servant? That he is a stubborn dolt. So we may likewise say of the people who write their laws in ink so indelible that it is beyond their power to erase them. They are the slaves of their superstition, the idolaters of the calf which they have made.

In all this I am far from advocating vigilance as a substitute for law. Vigilance is the law's mentor as well as the law's master. It does not wish to overthrow the law, else it is not vigilance, but revolution. To our learned friends upon the bench we might reverse their standing argument, and with far more propriety and pertinency say, if law and government were what they should be, there would never be a vigilance committee. That we may need it no more is the prayer of all good citizens.

There are others whose teachings are worthy our attention. Saint Paul says: "We know that the

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law is good if a man use it lawfully." Plutarch finds the truth in "following the most ancient law of nature, which makes the weak obey the strong, beginning with God and ending with the irrational part of creation; for these are taught by nature to use the advantages which their strength gives them over the weak." Blackstone teaches that "no human laws are of any validity if contrary to the law of nature; and such of them as are valid derive all their force and all their authority mediately or immediately from this original." Even Machiavelli, prince of princes' servants, is not far behind the rest when he writes: "Perchè, così come gli buoni costumi, per mantenersi, hanno bisogno delle leggi; così le leggi, per osservarsi, hanno bisogno de' buoni costumi." And Favart observes: "Tout citoyen est roi sous un roi citoyen." But strongest of all from him best capable of telling us the truth. "Let men learn that a legislature is not our God upon earth," says Herbert Spencer, "though, by the authority they ascribe to it, and the things they expect from it, they would seem to think it is. Let them learn rather that it is an institution serving a purely temporary purpose, whose power, when not stolen, is at the best borrowed. . . . Nay, indeed, have we not seen that government is essentially immoral? Is it not the offspring of evil, bearing about it all the marks of its parentage? Does it not exist because crime exists? Is it not strong, or as we say, despotic, when crime is great? Is there not more liberty, that is, less government, as crime diminishes? And must not government cease when crime ceases, for very lack of objects on which to perform its function? Not only does magisterial power exist because of evil, but it exists by evil. Violence is employed to maintain it; and all violence involves criminality. Soldiers, policemen, and gaolers; swords, batons, and fetters, are instruments for inflicting pain; and all infliction of pain is in the abstract wrong. The state employs evil weapons to subjugate evil, and is alike contaminated

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by the objects with which it deals and the means by which it works. Morality cannot recognize it; for morality, being simply a statement of the perfect law, can give no countenance to anything growing out of, and living by, breaches of that law." To which Charles Nordhoff adds his weight in these pertinent words: "Back of all laws and all authority must lie a belief that in the last resort every citizen will defend his own rights. You cannot put a corporal's guard at every man's door. The thief or robber at bottom never fears the law and the government nearly as much as he does the right arm and courage of the man he seeks to injure." What says the corner-stone of liberty, our own Declaration of Independence? "To secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed; that, whenever any form of government becomes destructive of these ends, it is the right of the people to alter or to abolish it, and to institute a new government." Likewise the preamble to the Massachusetts constitution in 1780: "Whenever these great objects," namely, liberty and the protection of the body politic in its natural rights, "are not obtained, the people have a right to alter the government, and to take measures necessary for their safety, prosperity, and happiness." So it is elsewhere fifty times maintained. Indeed, it is not the right to alter, but the method of doing it, that is questioned.

Let us take a look at this thing called law; not alone at the laws made by men for their own governance, and by virtue of which act, were there no other, their superiority over all material things is manifest, but at that subtle force everywhere apparent. It is not necessary to go to sheep-bound books to find out law. Statutes are form rather than force, or at best force formulated.

The Ionic philosophers saw one only all-pervading

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principle in nature, though personified in the minds of some by one element, and in the minds of others by another. Thus Thales thought it water, Anaxagoras atoms, Anaximenes air, Heraclitos fire. Science and religion now go behind all these and call this principle law; the one under title of the forces of nature, the other under that of the will of God. But whatever it is, science and religion see it, feel it, and believe in the same thing, though they call it by different names and numberless sub-names. We feel God in nature and in ourselves; as the blind child, feeling with its fingers the lineaments of the face it loves, reads thus the secrets of the heart behind it. Uppermost in the mind of the jurist are the written rules for the regulation of human societies; in the mind of the moralist the unwritten rules; the broader conceptions of the scientist refer mankind as well as nature to fixed laws. "Les lois," says Montesquieu, "dans la signification la plus étendue, sont les rapports nécessaires qui dérivent de la nature des choses; et dans ce sens, tous les êtres ont leurs lois; la divinité a ses lois, le monde matériel a ses lois, les intelligences supérieurs à l'homme ont leur lois, les bêtes ont leurs lois, l'homme a ses lois."

But when thus or otherwise defined, we are as far as ever from knowing what law is. A religionist like Hooker places the seat of law in the bosom of God, who chooses himself to be influenced by the laws which he establishes; whence arise law-worship and disputes of various kinds. The law of nature, in its requirements and punishments, is the same whether it comes to us through our senses and our reason, or through pretended revelation. All that the most inspired can do is to throw it into the same category with all unknowable phenomena, and there for the present leave it. Speculate as we will, the *cogito, ergo sum* of philosophy is our bound.

We know that it is, and we know of it little else. Law is everywhere. Sit in your house, there rise

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round you the unwritten obligations between husband and wife, parents and children, master and servant. Go out upon the street, and at every turn you encounter some one of the thousand rules which regulate man's intercourse with man. There are laws of health, of business, of fashion, of pleasure. Out upon the sea, out in the wilderness; all things animate and inanimate, all things terrestrial and celestial, all things palpaple and impalpable, are under dominion of law. By law worlds whirl and atoms are held in place. By law suns shine, mountains stand, and seas yield their moisture. By law winds blow, rains fall, flowers bloom, birds fly, fishes swim, beasts growl, and man murders. Under law all that is strong and dreadful lies bound. Law flings lightning about the heavens, cracks the thunder-cloud, melts the shrouds of winter, and swells the buds of spring. From molecule to planet, from invisible mist-particle to the mighty main, from the breath of sleeping infant to the roaring tempest, all observe order, office, place, and form. Even the apparently erratic affairs of men, which until recently were regarded as under the immediate governance of free and reasoning intelligence, are now, for the most part, referred to laws as the mainspring of their guidance. That most subtile of inspirations, the mind of man, we now perceive to be balanced by law. The animate and rational is subservient to the seemingly inanimate and irrational, and by obedience to these laws creatures and things alone exist.

Neither is it alone force, but as it would seem intelligent force that rules this universe. The crystal forms not by the laws of the granite, nor the granite by the laws of the crystal. The plant grows not as the river grows, nor is man made as the mountain is made. Each after its kind fulfils its law. Call it by what name you will, abstract spiritual agency, cosmo-mechanical energy, nature or deity, its inscrutible sympathies and antipathies are manifested no less in

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blind matter than in enlightened intellect. Whether this power be increate and eternal, or finite; whether it is conceived *per se* and exists *in se*, or is the result of *a priori* conceptions and exists *per aliud*, it is clear to all that system and design are among its most prominent features.

Further than this, every person and every thing imposes laws on every other person and every other thing. Under force exists all; physical force, first dominator, then moral force, moral force being the legitimate result of physical force, the legitimate and justifiable result, which makes might right, else we should not find it so. Nature is law's logic, law's reason. Whatever in nature man finds stronger than himself he calls right, whatever is weaker he pronounces wrong. We do not ask if the air has the right to blow on us, or the water to drown us, or the fire to burn us; but when human societies commit uncontrollable follies they are anathema, because they are susceptible of improvement. In framing laws for the regulation of nations in their relations one toward another, might is first considered and then right. International law is little else than an attempt to refine barbarisms, not an attempt to eradicate them. Even lawless war has its laws, and the law-breaking *duello;* likewise lust, and robbery, and all those worse than beastly doings which cause God to blush for man whom he has made, and for the laws which so sadly fail to secure in him decency.

Follow nature back into the infinite, and, obscure as are its operations to us, we yet can see even here a government under mechanical laws. No new force is found which may not have had existence from the beginning, and neither force nor matter is distinguishable in one world which may not be common to all worlds. That is to say, by observation, uniformity of action and regularity in results have been discovered in nature, and have been called laws. The genesis of man is but a sequel to the genesis of nature. So

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linked with each other are all the natural sciences, so interwoven are the forces which govern man and nature, that we can see in the progress of civilization only a continuation of that process of evolution everywhere apparent in the physical world. And this law of nature is as far back as we can go in searching the origin of law. Law is universal and singular; whether natural or artificial, it is one and the same principle.

The forces of nature are diverse, and are held in equilibrium by their antagonisms. Some of them at times appear to act contrary to the interests of man, yet all favor him when duly restricted and directed. Wind and water may be trained to sail ships and turn mills, and the lightning which strikes destruction is bridled to carry messages. Society, at first free, accepts self-subordination for the purpose of subordinating others, which done, it struggles for freedom. This partially achieved, it lapses into yet more stringent restraints.

It appears not a little strange that of all created things civilized man should not be able to live in harmony with his kind without first binding himself in social, political, and theological fetters. In this respect he is more brutish than brutes, more extravagant in his senselessness than inanimate things. As the heathen by the mouth of Protagoras put it, "Man was overlooked in the original distribution of gifts by Epimetheus among mortal creatures, and was left the only base and defenceless animal in creation; and though Prometheus strove to remedy his brother's oversight as far as he could by giving him fire and other means of life, still there was no principle of government, and man kept slaying and plundering his brother man; till at last Jove took pity on him, and sent Hermes to distribute justice and friendship, not to a favored few but to all alike."

Inanimate things and irrational creatures must blindly obey the law of nature, but rational men find

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it necessary to place themselves under restrictions of their own making in order to dwell together in harmony. In masses of progressive men there appears to be a mental inaptitude for single and independent self-guidance; and failing the instincts of the brute, a code of conduct must be marked out and stamped with some sort of authority. Their well-being left by nature partially free, they must needs fetter it immediately or their behavior becomes such as to bring upon themselves destruction. Should man some day become emancipated from the law of nature, he may hope to emancipate himself from the restrictions which the boon of free-will lays upon him. Even the beasts which when wild might roam at will, tamed must have a halter. So it is with wild and tamed men. Laws are the cords that tie each person in his place. In proportion as private and public intelligence increases the authority of rulers decreases. Law arises from necessity, and not from the desire of individuals for restraint. Though in every human aggregation there must be some sort of subordination, in the earlier and incoherent stages it is very slight; only with the evolution of society is a complex governmental system evolved. The animalism in man must be restrained, if not on principles of morality then from expediency. If man were only animal, then bird-law, or fish-law, or beast-law would suffice. But man is more than animal, and animal laws do not answer for the regulation of intellectual properties. The normal condition of mankind is progress. To progress belong wealth, rights, and mental culture; and for the preservation of these there must be a yielding of some portion of the individual will to the united will of the nation, some regulations or laws which all are bound to obey.

It is into such bondage man is born. Innumerable laws, twisted into the cable of one great law, bind him at the outset to his treadmill existence. And as if this were not enough he straightway sets about formu-

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lating forces which shall place him under new restrictions, light at first, but made stronger at each step that lifts him above brute existence. Peopling the heavens with dire intelligences, he passes an epoch of spiritual and political superstitions in which the mind becomes stupefied by an agony of slavish fear. From this despotism, in due time, he awakens, rattles his chains, breaks some of them, but only to find stronger, finer cords with each emancipation. Thus paradoxical is our freedom when it comes, liberty leading only to greater bondage; for the more advanced the civilization the more powerful the unwritten law. Is it not humiliating, is it not far from high or holy satisfaction, the thought that of all animals man alone should require conventional rules immediately he associates in a civilized way; that with his intelligence and reason he should require laws to govern him, when brutes associate in comparative harmony, each with its kind, without the appointment of legislature, governor, judge, or hangman? Obviously this is the penalty man pays for his reason. It is because he is a reasonable creature that he is forced thus to regulate his conduct according to reason. It is because he is one with the eternal all-ruling intelligence, that intelligence is necessary in the direction of his affairs. Yet if we so conclude that in God's stead man rules himself; that nature makes not laws for its creator; that man's intelligence is above nature, and nature makes no laws for the intellect of man—still I should say so much the worse for an intelligence which so humiliates intelligence, and I should find nothing admirable or worshipful in such domination.

But however may seem to us the origin of law and the manufacturing of statutes, the necessity of written rules we must recognize. Law we must have, and government, for so it is appointed unto man. And good citizens will obey the law and support the government; for it is for them and their children, as

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against the wicked, as protection from those who would injure them, that laws are made and governors placed in authority to execute the laws. But to talk of the sacredness of law, at this day, is to clothe rules and prescriptions with the superstitious veneration which enshrouded them of old. Government is, or should be, the united will of a majority of the people coöperated for protection against that spirit of evil which seems to take possession in a greater or less degree of certain members of every community; and there is nothing honorable, august, or sacred in the office, or in the person of him who exercises delegated power, which is not found in the persons of those who bestow it. Yet mankind are slow to shake off this superstition; so slow that from the divine right of kings they step to the divine right of legislators, and the despotism of monarchy is succeeded by a despotism of democracy.

The strongest element of social subordination is found in that awe in which the masses hold the possessors of power; and those high-sounding titles and imposing pageantries which unduly magnify the actions of officials so foster in the popular mind this spirit of reverence as to make disloyalty the greatest of crimes.

The very words and symbols of authority, such as legal verbiage, red tape and seals, and all that claptrap of justice of which wigs, gowns, and divers hollow ceremonies are a part, tend to impose upon the people and fill their minds with fear as of some solemn mysterious power. When the Athenian leaders of popular reform, Pericles and Ephialtes, talked of abolishing the high court of the Areopagus, Æschylus in his great Triology represented the venerable court as having been founded by Pallas for the trial of Orestes, and so held it up as an institution ever to be revered by every pious Athenian. Up to the year 1823, when Mr Black, editor of the *Morning Chronicle*, attacked some of the vices and absurdities of En-

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glish law, the judicature of England was regarded a model of perfection.

Not justice alone, but courts of justice, in the eyes of ignorance, are given us by the gods. The most prominent effort of philosophy to-day is to rescue from empiricism the laws under which human beings aggregate and live.

From the worship of demi-gods and heroes, from the Hebrew Scriptures or other holy books, from the Cæsarian despotism, or from some other source, mankind became imbued with the opinion that kings, as representatives of divine power on earth, should be implicitly obeyed; nor was it until a comparatively recent period that the theory of original compact between the ruler and his subjects was recognized. Blood revenge was held by the savage a sacred duty, as civilized law to-day is held by certain of its ministers a sacred thing.

The earliest form of government, after the government of environment, is the authority exercised by the parent over the child. The child is born helpless, and in its rearing and education it must adapt itself to the more experienced will of the parent. The father of the family becomes the patriarch of an aggregation of families. Posterity deifies his memory, and he takes his place among the gods of the national mythology. At length the doctrine of ancestral divinity is applied to the living monarch. Although he may not yet be deemed divine, his mission is. Although not a god, he has the authority of a god, delegated, it may be, from his dead ancestors, and later from the creator. He is respected by his subjects as of heavenly origin. He is addressed in the terms in which the creator is addressed, Majesty, Lord. Obeisance is made to him as to God. Men hold their lives and their property subject to his will, submitting to him, as vicegerent of the creator, as they submit to God, their maker. But with the elevation of the intellect

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comes the downfall of the divine theory of king-craft. The monarch is divested of his supernatural robes; he is permitted to rule at the will of the people. Loyalty comes to mean patriotism rather than abject submission.

Now patriotism is but a reflex of egotism, and respect for statutes and constitutions is but another form of loyalty. And as excessive love of country is excessive self-love, so undue worship of forms of law is a part of that superstitious loyalty which of old held to the doctrine of divine kingship. If reverence is anywhere due, whatever good there may be in loyalty, in that sentiment which unites individuals under a common head, it is not the power of law which should be reverenced, but the power which creates and sustains law. This doctrine of divine kingship appears, in a sort of inverted form, in the Athenian's creed, which held it dangerous for a man to rise above his fellows—whence ostracism, or oyster-shell voting a too ambitious man out of the country.

From this divine king-worship have sprung many of the courtesies of modern society, expressions of fear, awe, propitiation, submission, as well as political subordination. Form of some kind is necessary. I have said that the forces of nature are held in equilibrium by their antagonisms. Throughout the universe we see two great contending powers, attraction and repulsion, both of which are essential to development, nay, to life itself. It is the action and reaction of these opposing forces that give form and life to matter, that underlie all development, that separate the chaos of nebulæ into systems of worlds, and systems of vegetable and animal organisms. So it is in society. It is the tendency of opposing forces toward an equilibrium that constitutes progress. If wealth and culture and rank and power had, from the beginning, been given in equal parts to every individual, there would be no activity, no struggle, no progress. The laws of man and the laws of matter are correlative.

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As refinement and good morals assert dominion crime diminishes, and thus the penalty that the community must pay for the evil which is done in it is lessened. What will quicker arouse the spirit of liberty than despotism, of order than anarchy? How could we value virtue but for vice? Civilization may have been dearly purchased at the cost of so much suffering and wickedness, but without war, bigotry, murder, tyranny—in short, without the combined evils incident to humanity, the very existence of progressional phenomena is unthinkable. Nevertheless, each new blessing only opens the door to new bondages.

Between the forces of society and the laws by which those forces act there is a vast difference, a difference not always recognized by legislators and jurists. Often law is mistaken for force, and force for law. If I toss a ball into the air, the law of gravitation is not subverted, though its force may be. When laws antagonistic both to the forces that move society and to the laws that govern such forces are placed on the statute-book, they are certain to be either annulled or to stand inoperative. Without the support of the people, I say, statutes are the stolidest of dead things. Solon was well aware that his laws were not the best that could be made, but they were the best the Athenians would receive. Self-preservation and all other instincts are forces, and their behavior under given conditions reveals to us the laws under which they act. Social forces make for themselves sociological laws; statutory laws are neither the one nor the other, but to remain in force they must be consistent with both. Many say that popular tribunals are good in theory but wrong in practice. Now ignorance alone affirms of a thing that it may be correct in theory, and at the same time impracticable. Nothing true in theory can be untrue in practice; if a plan fails in its application, then clearly the hypothesis is at fault.

Often we hear remarked of an enactment, It is a

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good law, but impossible of execution. How absurd! A law impossible of execution, or that otherwise falls far short of its purpose, is not a good law, is worse than no law at all. Stupidly we look to legislation as an infallible panacea for every social ill, and never cease alternately to beseech and curse the demi-gods who sit in council to make our laws. Thus endless expectation waits on endless disappointment.

This doctrine of the divine right of kings and passive obedience on the part of the people never obtained in Anglo-Saxon America, and least of all in California. So sovereign in thought and feeling were the people of this new commonwealth, that traditional forms and conventional restraint were for the most part thrown aside. At the first every mining district made its own laws and regulated its own affairs. As in savagism, government, which according to the modern ideal, is the protection of life and property and the punishment of crime, was absent. And indeed they did very well without it, for there was little property, save that of a portable kind, and every man defended his own life or left it without defence. He punished crimes committed against himself, if he was able; if not, he left them unpunished. Later came that loyalty which springs from social compact, a compact which delegates certain rights of the individual to society on condition that society shall protect him in other rights, the conscience as well as the person gradually becoming bound by it. But when established forms are warped for vile purposes by a dishonest minority, then the principle of self-preservation comes in, which our laws and our constitution, as well as every instinct of our nature, hold to be first.

The whole matter—that is, the right of vigilance, not the expediency or the manner of its execution—turns after all on the right of revolution, a right which *a priori* few deny, howsoever one complains when in its

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incipiency it may tread on one's interests or prejudices. I say the *morale* of that class of social eruptions which in California took the name of vigilance committees turns on one's view of this right of revolution and on one's general conceptions of law and ethics. Were Luther, and Cromwell, and Washington right? Were Coleman, and Dempster, and Truett wrong? And if it be true that under sufficient provocation a number of persons possess the right to rebel against their rulers, then we might enquire how much provocation is necessary to render rebellion justifiable, and how many robbers, or murderers, or disturbers of the public peace must band before their acts shall be raised from the category of crime to the dignity of insurrection.

I do not mean to say that the vigilance committees in California, and elsewhere in the Pacific States, were revolutionary in their character. They were not. It was no part of their purpose in any instance to overthrow the government, to usurp political power, or to clog the machinery of legislation or of law. The principle involved, however, is the same. It is the act, rather than the motive, that the law judges. The question is, not whether it is right to break the law in order to accomplish a good purpose, but whether it is ever right to break the law at all.

On this question the ablest minds, not alone in California, but throughout the world, as before intimated, were at issue. Though tacitly admitting the right of revolution, there were those who denied the exercise of that right. And differences of opinion have existed, and do still exist, both as to the right and the policy of an arbitrary assumption of administrative power by the people under any circumstances. Better, some say, that virtuous citizens should throw their weight into the balance with legislature and law courts, and so achieve the right unstained by lawless blood. To sanction the doing of evil that good may come is to tread on dangerous ground, and estab-

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lish a precedent which some day may recoil on its authors with terrible effect. Where the law ends, tyranny begins; the cure is worse than the disease. Such and many other like maxims are brought forward in defence of obedience to the existing laws of the land under any and all circumstances.

On the other hand the right of revolution is maintained as the dearest right of a free people. Law is the servant and not the master of men. When the law, made by a majority of citizens, becomes dead or inutile, it is not only the privilege but the duty of the majority to adopt new rules for the governance and protection of society. As a rule the minority contend that the state as a political organism embodies sovereign power, and that the power of the state is superior to the power of the people, while the majority maintain that the people are sovereign. If the laws and constitution are contrary to the will of the majority, then the minority rule; if a majority of the people possess the sovereign power, it seems paradoxical to allege that they can commit treason against themselves. Respect for the law, obedience to righteous law, these are the questions involved. Manifestly it is the duty of every individual to heed and obey the laws; thus far both sides agree, and thus far there may be a tincture of divinity in the existing laws, for statutory law is supposed to embody most of the divine and moral laws. But it is not that species of divinity attributed to law from a study of the law's mystical technicalities by the high priests of its idolatry, which makes form superior to substance, and bows before the skeleton long after the soul has departed.

Hence arose two parties, the Law and Order party, and the Popular Tribunal party. Both sides agreed that the laws of the land should be obeyed, but in practice there was this difference: The popular party—that is to say the people, the masses, of which committees of vigilance are always composed—were as a

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rule industrious, orderly, God-fearing, and law-abiding men. They were the class that laws are made to protect and not to punish. The law and order party, after including a certain class of lawyers and officials, was composed in a great measure of the lawless and orderless, habitual law-breakers, who lived not by honest labor, but by subverting and distorting the law so that they might fatten on the labor of others, and who estimated the justice of the judge by their own villainy; and it was seemingly fit that those who lived by the breaking of laws should thus band for mutual support. This was the class the laws were made to punish; but in their hands, and in the hands of their masters whom they had elevated to office, it constituted a safe protection for them, and was made to punish those only whom it should have protected. It was wholly an anomalous condition of things, and to judge the action of early Californians by the rules of older societies is wrong. No wonder these men saw divinity in law; it was the only kind of divinity many of them were ever able to discern; the divinity of the ballot-box, of jails and city halls; that devilish divinity which affords protection from lawful penalties incurred by promiscuous robbery and murder.

I say it is absurd to charge the members of the San Francisco Vigilance Committee with disrespect for the laws. Their deference was not displayed in loud protestations of patriotism, in fanatical adoration of the capped and gowned goddess of liberty, or in lung-splitting reverence for a piece of starred and striped bunting; these were the sounding brass and tinkling cymbal of the law and order party. The deference of the mercantile and industrial classes for law was manifest in practice rather than in profession. Their daily life was a standing commentary on their respect for and obedience to the laws of God and the laws of their country, even if they did somewhat roughly handle the law in rescuing it from the clutches of wicked men.

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Not disrespect for the law, nor a denial of the human and divine right of law to be obeyed; not the absence of a necessity for law; not a lack of due deference to judges, governors, and administrators of the law when such deference was their due, when it was not the deference of subjects to a master but the deference of freemen for the instrument which for the time embodied their common rule of conduct, which would result in the greatest good to the greatest number—nothing of this kind can rightly be charged on members of vigilance committees. It was the right of a majority of the people to suspend the action of the law, or to change the existing form of law or of government by the surest and most direct method, whenever they deemed it essential to the well-being of society to do so—and this, if necessary, without waiting the slower, less effectual, and less certain means provided by constitution or statute. In short it was the right of revolution which they claimed; a right more divine than the divine right of law; a right stoutly sustained as the bulwark of all our liberties, from the days of John, king of England, to the present time; a right which cannot be denied without stopping the wheels of progress and sending mankind back into the Dark Age.

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CHAPTER III.

ENGENDERING CONDITIONS.

There is what I call the American idea.
Theodore Parker.

For the further elucidation of the subject, I propose to give a historical sketch of Popular Tribunals in the Pacific States, more particularly in San Francisco, covering a period of thirty years from their inception.

And first of all, a glance at the several phases of early society throughout this territory, with special reference to such causes and conditions as stimulate or retard the displays of irregular administration here engendered.

The conquerors of Central America and Mexico, and those who followed in their wake as settlers, were not subjected to the same species of anomalous justice that later influenced the loose-minded pioneers of Anglo-Saxon heritage. For this two causes may be assigned: First, the Spanish settlers were colonists, under the immediate rule of a despotic governor appointed by a jealous sovereign. In most instances this governor exercised over his subjects the power of life and death; standing in the king's stead, he was responsible for his acts only to the crown. His government was military as well as civil, and irregularities, if not committed by himself, were grave offenses. Moreover, loyalty was so inbred in the Spanish character, so part of that superstition which constitutes the second cause why vigilance committees could not exercise their sway under Spanish rule, that to oppose their

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will to that of the sovereign or his deputy, was an act so sacrilegious as to be entertained only by the most abandoned. To the uttermost ends of the earth the wrath of heaven would pursue the disobedient. And whatsoever element of society there might be not under the complete dominion of secular power, the church was sure to hold in subjection. The Spanish colonists were not their own masters. They could not go and come as they pleased; they could not explore, subdue, and occupy except by permission. Unless thoroughly loyal to church and state, they were not fit subjects for colonization; they were not Spaniards; they were heretics, worse than Moslem or Jew, and fit only for death and perdition. They could act in any direction only by permission of the creator himself, as spoken by his vicegerents, who were in temporal affairs the king of Spain or his deputy, and in spiritual matters the pope of Rome or his deputy. Later, when both church and state by their sottish inanity lost much of their power, and the yoke of Spain fell from the necks of the colonists, society split into innumerable opposing factions, which have been uniting and dividing and fighting each other much of the time since. All the while crime was rampant. Few were too good to steal. The rich were forced to contribute of their wealth to the support of the party in power; the officers of the government were seldom zealous except under the stimulus of a bribe; justice was bought and sold, and there was little difference, except in outward appearance, between the professional highwayman and the peculator in office. Meanwhile there spawned a hybrid race, brute-low in stupidity; and these, poor and priest-ridden, were glad to eat and sun themselves in peace, careless of all things else. People, in our Anglo-American sense of the word, there were few; surely it is apparent enough that there was not here the material for a vigilance committee. Of banditti there were always plenty. Highway robbery was here raised to a science. Instead

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of taking the road and keeping it, thereby stopping travel and ruining the business, the marauders would migrate irregularly, so as always to have some part of their field lying fallow. But alternately almost every section was visited, and at such times every highway swarmed with robbers. The criminal statistics of republican Mexico show some twenty thousand arrests annually, beside which those of California, even during her periods of most stringent reform, seem tame enough. And the guard was sometimes even more dangerous than the outlaw; it was the proper thing for a hired escort to do, to flee at the approach of banditti, if indeed they did not assist in the pillage. Convicts were sometimes bound in couples by means of iron girdles, sometimes with chains six feet in length, and put to work on the highway. The jails of Sonora were poor affairs; and as for police, in many parts they were unknown. Banditti became so bold at times as to enter a town and rob a store in open day; if they confined their operations to the road and to strangers, the authorities were not quick to molest them.

The constitution of Sonora provided a tribunal of justice composed of three chambers with *letrados*, that is to say, three judges and a *fiscal;* the letrados to be chosen by non-professionals. These were appointed every four years by congress. Magistrates were selected under special laws which defined their power; some were appointed by the governor with approval of congress. Frequently judges were placed in office expressly to be used as the tools of those electing them, even as under governments of more pretensions. Few were learned in jurisprudence, and many could not read or write.

An old Mexican living in the robber-infected region of Jalisco called together the neighboring rancheros and made war in a body on the banditti. Soon the district was cleared of them; but in their zeal the armed corps did not stop there. Whenever any sus-

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picious-looking persons were seen lounging about, they were shot down without waiting to undergo the forms and uncertainties of law. When asked if in this way it did not sometimes happen that the innocent were punished with the guilty, the old man answered: "Oh, yes; but the average on the right side is sure to be kept up!"

The northern part of Lower California has been much of the time in a disorganized state, the orders of the supreme government being unknown; and, indeed, had they been known they would not have been regarded along the frontier, some claiming to be under the government of Alta California and some professing to belong to Baja California, which was equivalent to being under the jurisdiction of neither.

It was held to be a very wicked thing to kill a priest; more wicked than to kill a man less sure of seraphic glories. In 1805 a woman murdered Father Surroca in his bed because she had been dismissed from the padre's house. What Surroca had done to her is not stated. The order for the execution of the woman, together with two natives, was passed by the auditor of war on the last day of the year aforesaid. The auditor recommended hanging, if an executioner could be found; if not, shooting would do. In either event, the head and right hand of the woman were to be spitted in the most public place in San'to Tomás, and those of the others in other suitable places.

The 10th of June, 1849, Agustin Mancilla y Gamboa writes from San Francisco Javier to his brother at San Diego complaining of the insecure condition of property, and the absence of any administering of justice. Among other outrages, he speaks of the robbery of the church of Santo Tomás and the sale of the articles to some men trading toward San Diego, and asks for their arrest. J. Ross Browne testifies that in 1866 the country was well governed, though

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between the years 1851 and 1861 the Peninsula was infested with runaway rascals from Mexico and California, many of whom had to be shot as a warning. And notwithstanding the frequent revolutions, Browne asserts that Lower California is a peaceful country, and that robbery and murder are infrequent.

Here, as elsewhere under Mexican rule, the custom was prevalent of advancing supplies to miners; that is, of paying them, usually in merchandise at exorbitant prices, for some time in advance, trusting to the hold law and custom gave upon the person of such debtors to get back their expenditure, with a profit, in the services of those thus bound to them. A mining superintendent near Santo Tomás in January, 1858, having distributed the weekly rations as usual, found one morning that advantage had been taken of the circumstance by two miners, who had decamped during the night, amply supplied with food. As soon as the discovery was made, the superintendent sent an American to the alcalde at Santo Tomás to obtain an order for the arrest of the fugitives. It was furnished at once, commissioning the Americans to bring them back living or dead. The alcalde also sent three Mexicans with him to assist in the execution of his order. They were successful in the pursuit, returning to the alcalde before dusk with the prisoners, who, declaring themselves innocent of the charge, were not confined in the calaboose. The next morning the alcalde went to the mines, ordering the prisoners to follow in about half an hour. Trusting to their honor, they were allowed to come without a guard. Upon the opening of the court, the superintendent of the mines appeared as prosecuting attorney. Testimony was heard from all the witnesses without any administering of oath. The court, unwilling to take the responsibility of deciding the case, proposed that the plaintiff and defendants should choose *hombres buenos*, and that the case be adjourned until the next day, which was done. The hombres buenos are pecu-

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liar to Mexican judicature, differing from associate judges, arbitrators, or jurymen, but approximating toward all these. Upon the presentation of the testimony to this tribunal they decided to act on the suggestion of the superintendent, and condemned the prisoners to work out the value of the rations with which they had absconded, and to pay the costs of court.

The execution of some twelve criminals by law in 1860, murderers of Governor Castro and others, within a period of five months, brought upon Esparza, the governor, a swarm of vermin friends of the executed, threatening his life and that of all those having any hand in the executions.

When Dávalos was governor of Lower California, in 1873, wishing to increase his revenue while giving gratification to his people, he permitted during the Christmas holidays a three days' indulgence in the favorite but interdicted game of monte. The fourth day, desirous of seeing in person how his order for the discontinuance of the amusement had been obeyed, he entered a saloon in company with an officer, and each drawing a pistol, more in play than in earnest, pointed the weapons at a party seated at a monte table, and ordered their surrender. Unfortunately the governor's pistol was accidentally discharged, killing an old and respected citizen of La Trinchera, Don José María Mendoza, a looker-on. After which the governor, fearing assassination at the hands of the younger members of the Mendoza family, dared not venture abroad save under cover of a body guard of ten men.

In November, 1875, small squads of Sonoran banditti camped in Lower California just south of the line. The Americans on the San Diego side of the line did not regard their presence so near their families with favor, and so they drove them away. The 30th of this month two men, Leclaire and Sosa, were killed, as was supposed, by Lopez' gang. An alcalde

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of Lower California united with the sheriff of San Diego to arrest and bring the offenders to justice.

Until a comparatively recent period, Arizona, in common with northern Mexico, was in the hands of the savages. Wide ranges of country were not inhabited by white men; and to pass through the country, unless prepared for battle, was attended with great danger. There were sections rich in precious metals, but to develop them was impossible. The arid soil offered few attractions for agriculturists; vast uninhabitable deserts isolated settlers on the fertile spots, and afforded secure retreat for marauding aboriginals. These same deserts, however, were not favorable to civilized ruffians; there were too few hiding-places, and if not soon run down and captured, hunger or thirst would drive the flying criminal back upon his avengers. Nevertheless in due time civilization developed some first-class scoundrels, who met their dues at the hands of the popular tribunal.

Before the establishment of the Mexican republic justice in New Mexico issued directly or indirectly from the civil or military comandante. There were minor courts for petty causes, but important cases were decided for the most part by the governor. Affairs were still worse after the organization of the federal government at the city of Mexico. The only tribunal then in New Mexico was the alcalde's court. Under certain restrictions appeals were carried to the supreme court at Chihuahua, but few could afford the delay and expense. The routine of law courts was unknown, and the distance to the audiencia of Mexico was so great as to impede the adjustment of rights.

The forms of litigation in New Mexico were quite simple. The complainant appeared in person and made a verbal statement before the alcalde, who ordered him to summon the accused, which was done by using the words, 'Le llama el alcalde,' the plain-

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tiff thus acting as complainant and constable. The defendant failing to appear in answer to the verbal summons of the plaintiff, the alcalde caused to eb served on him the regular process of the court, which was a large cane, called the *baston de justicia*, an ordinary walking-stick, having sometimes cut upon it a cross, but distinguished from a common cane chiefly by a black silk tassel peculiar to this stick of justice. Both litigants being present, each gave his own version of the case. Sometimes witnesses were summoned and sworn on the cross cut on the baston de justicia. Oftener, however, a cross formed by the finger and thumb was used in administering oaths. It was a lazy, lying sort of justice. Very frequently there would be neither witness nor oath in the case, which indeed was often just as well. The alcalde would hear and determine. It was all law, and the magistrate was far above fallible man. Trial by jury was not practised, but in place of juries there were the hombres buenos before mentioned, to whom cases were often referred for decision.

In judicial proceedings, little attention was paid to codes or forms. Indeed, alcaldes learned in the law were extremely rare, many of them never in their lives having looked between the covers of a law-book. Their proceedings when not warped by corruption were controlled by the prevailing customs of the country. Justice was administered under three distinct and privileged jurisdictions, known as *fueros:* First, the *eclesiástico,* which ordained that no member of the clergy above the rank of curate should be arraigned before a civil tribunal, but should be tried by the superiors of his order; second, the *militar,* which made similar provision in favor not only of commissioned officers, but of common soldiers; third, the civil or ordinary courts for all cases in which the defendants were laymen. "These fueros," says Gregg, "have hitherto maintained the ecclesiastic and military classes in perfect independence of the civil

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authorities. The civil, in fact, remains in some degree subordinate to the other two fueros; for it can under no circumstances have any jurisdiction whatever over them, while the lay plaintiff, in the privileged tribunals of these, may if unsuccessful, have judgment entered against him, a consequence that could never follow the suits of the ecclesiastical or military orders before the civil tribunals."

The decisions of the alcalde were seldom in strict accordance with the merits of the case, and bribery was frequent. Indeed, he who had not the money with which to bribe the alcalde was almost sure to lose his case. The injustice and corruption of courts of law constituted one of the most painful features of this demoralized society. In a judicial contest with the wealthy the poor stood little chance, for if judge and witnesses were not directly bought with money their influence carried sufficient weight to neutralize plebeian testimony if offered against them. A person of influence could keep a prisoner in the *calabozo* almost at pleasure; on the other hand without wealth or influence justice was beyond reach.

In New Mexico punishment was administered neither in proportion to the malignity of the offence, nor having prominently in view the vindication of outraged law, nor the reformation of the evil-doer. Should the creditor express a willingness to apply the services of a debtor on account of the judgment obtained, the debtor was not imprisoned; but from the low wages allowed it was easy, in most cases, for the creditor, by making further advances from time to time, to reduce the debtor to a state of peonage and hold him in bondage for life. For debt, theft, and murder, the customary sentence was the same, 'á la cárcel,' and the offender was likely to remain about as long through inability to pay an insignificant sum of money as for the gravest of crimes, always provided that nothing was forthcoming for purposes of bribery.

The mode of punishment was fine and imprison-

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ment, which in a society so dull, given to such sensual gratifications as lay within their reach, was by no means the most awe-inspiring or effectual. Fine could not be exacted where the offender possessed nothing; and imprisonment implied shelter and food, comforts not always within the reach of all.

Bodily infliction, though open to the charge of brutality, is after all, in some form, the only punishment capable of holding crime in check. Some abhor whipping from the pain it brings, others from the disgrace attending it; all fear death. As for the relative brutality of corporal punishment and imprisonment, I think under analysis the sentiment would signify a caprice of fashion rather than a vital difference. To cage a human being like a wild beast, or to chastise him and give him his liberty, there is on this ground little choice.

In Utah religious fanaticism absorbed all sense of justice. To disobey the church was never so much as thought of among its followers. For any number of Mormons to assume attitudes antagonistic to their leaders, or to divine revelation, was scarcely deemed possible. The Mormon theocracy left no place for questioning; where God himself immediately governed, there, indeed, was law a sacred thing. There was little need of judicial mechanisms, court juggleries, forms, or furbelows. God's will was law; that will was made known by the mouth of his prophet; so that the voice of the church itself was law. Under such a régime, the little punishment little children required was easily administered, and the spirit of law and order brought these blind and ignorant worshippers to their knees, and held them there in breathless awe. Under a theocratic government, no less than under a strong despotic government, we shall look in vain for the popular tribunal. The necessity for such an organization could not exist, or if it did, the material composing it could not be found; for if such

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principles obtained there would no longer be any theocracy. Utah cannot boast of a single respectable mob, if we exclude from such category, as certainly we must, troubles with natives and with gentiles.

In California the case was different. Unlike the tribes of Arizona, New Mexico, and northern Mexico, the natives of the great valley drained by the Sacramento and the San Joaquin were weak, defenceless, peaceable. The attention of the miners was not absorbed, their interests were not welded by fear of the savages. The poor creatures aboriginally inhabiting the Sierra Foothills were little disposed to retaliate the insults and outrages heaped upon them; should they now and then attempt to right a wrong, a hundred lives for one was regarded poor payment, and such impious justice soon swept them away.

Utah had much law and few people; California had many people and little law. I do not speak as to relative numbers, but as to the relative intelligence, force, and capabilities of the people. California was little cursed by superstition; probably there never were assembled from all nations a greater number whose minds were so enfranchised from the tyranny of ancient traditions, and whose thoughts were so free. In such a society we may confidently look both for evil-doers and for those possessed of will and strength enough to punish them. The true followers of the prophet could never do wrong; they were not endowed with wit, wisdom, and energy sufficient for the achievement of great wickedness. This, however, applies only to the earlier immigrants, whose minds were at first dazed under the illumination of the bright skies of Utah, being so suddenly transformed thither from the dark places of Europe and America. It cannot be truthfully said of the people of Utah that they were long non-progressive. Behold even now, as their vestments are becoming somewhat cleansed of the ditch-water of England and Germany by the pure springs of their American oasis, do they

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not keep faithful vigil over what they deem the highest and holiest gifts that ever deity delivered to man? And is not their material improvement to some extent the outgrowth of their steadfast devotion to their religion?

In society and morals the early days of Nevada were a counterpart of the early days of California. As illustrative of the attitudes of law, when law with slow step and solemn demeanor drew nigh, and that popular sentiment which in border communities seizes so quickly the throat of a difficulty, there is told a story of one of Nevada's governors, who had pardoned a person whom the citizens had voted a rope, and had refused to pardon another who had shot his man, 'only in play like.' This did not at all suit the popular idea of propriety. So the people of Virginia, who by this time had acquired the name of the 'cussedest crowd in Christendom,' and who regarded it as not unreasonable to expect from their landlord every morning 'a dead man for breakfast,' came indignantly together to see what should be done. After discussing the matter potationally and at length without arriving at any satisfactory conclusion, one of their number arose, and without saying a word, cut from a new rope a piece several inches in length, and labelling it, "For his Excellency," despatched it to the governor. This was sufficient; the meeting adjourned satisfied.

For some time after the acquisition of the country from Mexico by the United States Government, under treaty of Guadalupe Hidalgo in 1848, Nevada formed part of the territory of Utah, from which it was separated by Act of Congress approved March 2, 1861. But as early as 1857 the inhabitants of Nevada had endeavored to sever their connection with Mormon rule. Delegates to Washington urged the establishing of a separate government. Meanwhile the discovery of silver at Virginia in the summer of 1869 brought in a large mixed class, rougher

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and more reckless, if possible, than that composing the Californian Inferno.

A district judge appointed for Utah was assigned this portion of the territory, and began his duties in 1860, but confusion and insecurity were little lessened thereby. Finally, on the 31st day of October, 1864, Nevada was admitted as a state; but several years elapsed before efficient courts of justice succeeded in intimidating crime. Meanwhile the people were obliged to administer punishment in their own way or give the land over to desperadoes.

As early as 1848 a few families, mostly Mormons, settled in the valleys of Carson and Washoe. In answer to the mandate issued from Great Salt Lake in 1855 for the faithful everywhere who would escape the destruction shortly to fall upon the gentile world to gather beneath the many-wived shepherds' wings at the city of the Saints, sacrificing their homes, with alacrity they obeyed; after which time the char-aracter of the settlers of that portion of the territory changed. A more lawless class occupied the farms which the Mormons had cultivated, and the evil element was increased by the overland travel which dropped among them an occasional ruffian of the highest attainments.

The progress of settlement in the territory of Oregon was slow in comparison with that of almost all other portions of the west, but it was sure and permanent. The arts and usages of civilized society introduced by the Hudson's Bay Company and continued by the Northwest Company were simple and crude; and those of the agricultural settlers who succeeded the fur-hunters were but little better.

Far different from the hot-house development of California, Idaho, and Nevada was that of Oregon and Washington, if we except the comparatively small mining districts within these territories. While the former were rioting in their easily acquired wealth,

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gambling, drinking, speculating, flinging their big bags of gold-dust hither and thither as if it was of all things the least valuable, the territories north were plowing their tough acres and plodding over their severe task of subjugating nature. Little foothold crime had there. There was nothing to steal. Cattle were not worth much; the ground could not be carried away; and houses were so far apart, and savages so bad, that the horse-thief would be more likely to starve than to get away safely with his plunder. So that during the time the mining states were suffering so severely from the inroads of crime, the agricultural states of the Pacific were almost wholly exempt. Nevertheless fitful spasms of arbitrary justice broke forth at intervals in the staid cold-water state.

Idaho belongs to what was once popularly called the Upper Country, aboriginally occupied by dusky races which first became known to Europeans through the adventurous trappers who penetrated those wilds. By the magic power of gold, discovered on the banks of the Pen d'Oreille River by a French Canadian in 1852; discovered in yet greater quantities at Oro Fino by a party of eleven men in the summer of 1860, this wilderness was opened to civilization.

Following the discovery of gold at Oro Fino, twenty-five persons wintered at that place, cut off from all intercourse with the world without. The spring of 1861 saw two individuals on their way to the new gold-fields, and emigration led to the finding of rich placer mines at Florence, on the tributaries of Salmon River, at Warren's Diggings, and elsewhere. By the 1st of January, 1863, twenty-five hundred men had found their way into Boise Basin, the largest and richest placer-mining region discovered up to this time outside of the limits of the valley of California. To the first town established in Boise Basin was given the elegant and euphonious name of Hog'em, afterward changed to Pioneer City. In Boise Basin are

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likewise the towns of Centreville, Placerville, and Idaho City, at first called Bannock City. About thirty miles south-west from Idaho City, on the Boise River, is Boise City. In the southern part of the territory were the quartz and placer mines of Owyhee County, discovered in the spring of 1863 by a prospecting party from Boise Basin under one Gordan. In the Owyhee district were Silver City, Ruby City, and Boonville.

Up to the beginning of 1863, Idaho, as a territorial division of the United States, had no existence; but drawn by its newly found wealth to the attention of political aspirants by act of congress approved the 3d of March, 1863, the territory of Idaho was created from contiguous portions of Washington, Dakota, and Nebraska. It is a wild, mountainous region—the term Idaho signifies Gem of the Mountain—well fitted for wild, roving men, but rich enough withal in those metals that civilization covets to set wrangling and blood-letting a goodly number of the lovers of disorder.

As early as 1862 the people of Lewiston effected a regular and complete vigilance organization. Books were opened for the enrollment of the names of such as desired to become members of the association. The list rapidly swelled, and the Lewiston Vigilance Committee proved a most efficient institution for the punishment and suppression of outlawry. In other localities, also, the people found it necessary to organize for mutual protection almost as soon as they had come together.

Montana was once a part of Idaho, and nowhere were popular tribunals more necessary or their executions more numerous. Colorado, likewise, during the earlier development of her mineral resources performed anew the now stereotyped tragedies of the Pacific States.

But we must go to California if we would examine these extra-judicial phenomena in the freshness of their first appearing.

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CHAPTER IV.

SIGNIFICATIONS OF STORM.

Cada uno es como dios le hizo, y aun peor muchas veces.
Don Quijote.

In the absence of that *vis vitæ* which crowds outward and onward progressive intelligence, there can be no great demonstrations of evil, except as it appears in the form of fanatical fermentations. A community too lazy or too stupid to improve breeds few skilled villains.

There is scarcely an instance on record where the Hispano-Californians, before the advent of foreigners, indulged in popular tribunals. The *hijos del país*, as a rule, were in favor of letting the law, as well as everything else, take its own course. Nevertheless, revolution was chronic here as elsewhere throughout the dominion of republican Mexico. Bad governors sent among them they resisted, and usually with success; but their political integrity vindicated, they left the administration of justice to legitimate authorities. Obedience to the laws was taught them as a religious duty; and as they were superstitious in their religion, so were they in their obedience to law. I find on record an incident that occurred at San Diego the 26th of March, 1833, which was a military movement rather than a popular demonstration, though frequently the two terms were synonymous. Antonio Alipás, private of the presidial company of Loreto, was under arrest at the guard-house at San Diego, when, between six and seven o'clock in the evening,

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Inocencio Arballo, corporal of the same company, with seven privates, all armed and mounted, rode up to the guard-house and demanded of the sergeant commanding the delivery of Alipás. The sergeant refusing, the soldiers forced the guard-house and took the prisoner with them.

From 1819 to 1846, that is to say during the entire period of Mexican domination under the republic, there were but six murders among the whites in all California. As in the golden reign of England's good King Alfred, a log cabin could hold all the criminals in the country. There were then no jails, no juries, no sheriffs, law processes, or courts; conscience and public opinion were law, and justice held an evenly balanced scale. During the seven years succeeding 1850 there were in Los Angeles county alone some fifty murders, without taking Indians into the account. What was the cause of it? The native Californians were most of all horrified at the change, and yet the native Californians, with the assistance and under the tutorage of their brethren of Sonora and other parts of northern Mexico, did most of the robbing and murdering. They were horrified that society had so changed, not thinking that they had changed. The advent of foreigners, some of whom were evil-minded, was the signal for a new departure. The Californians were excellent horsemen; they knew all the retreats and passes of the mountains; throughout the entire region the settlers were their relatives and friends, who spoke their language. Many of the Americans treated them badly; retaliation was natural and escape easy. Such is the origin of the matter.

From original documents in my possession I take the following account of the doings of what may safely be called the first committee of vigilance in California. It is, moreover, the only instance of summary illegal proceedings in this territory under Mexican rule; and this, I might say, was almost wholly an affair of the *estrangeros*.

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To certain foreigners present at the time, Temple, Prudon, and others, rather than to the Hispano-Californians themselves, this tribunal and its calm and orderly carriage was due. Left to the superstitious worshippers of church and state, the popular demonstration had not been; or if it had occurred, it would have been attended by gross excesses, such being the character of blindness and bigotry—cowardice first, then insane savagery.

On the 28th of March, 1837, Domingo Féliz, a poor ranchero, but a man of good repute, while on his way from Los Angeles to his rancho, and accompanied by his wife, María del Rosario Villa, was attacked and slain by Gervasio Alipás, a man of notoriously bad character, aided and abetted by the woman. For some two years previous to this time the murderer had been living in shamelessly open adultery with the woman, and only the day before the murder had her husband, invoking the aid of the alcalde, been able to separate her from her paramour, who swore to take speedy vengeance. A committee of citizens was sent by the alcalde to fetch the corpse. Horror and indignation took possession of all minds, and while for the murdered man the mercy of God was implored, exemplary punishment for his murderers was debated.

That night Alipás and the woman were securely lodged in jail. Some were desirous that the criminals should be immediately executed; but their ardor was restrained by the greater prudence of others, who reminded them that such proceedings could only be excused on the ground of necessity, and when carried out with coolness and in accordance with the rules and principles of strict justice.

The wisdom of these suggestions was acknowledged, and the threatened outbreak checked. On the 30th the funeral of Féliz took place, and the occasion gave rise to a renewal of the popular clamor. Nothing but the assassination was talked of, and the sentiment was fully approved that an example was necessary to

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prevent the possible occurrence of similar crimes. But holy week was at hand, and it was thought it would be tantamount to sacrilege were the blood of so foul an assassin to stain the remembrance of that most solemn of tragedies. Therefore the first work-day after easter, which would be the 6th of April, was fixed on as that of the execution. A heavy storm which raged during the whole of that day made postponement necessary, but on the 7th, at an early hour, the most respectable men of all classes of the community assembled at the house of John Temple. A *Junta Defensora de la Seguridad Pública*, or Board of Public Security, was organized. Victor Prudon, by birth a Frenchman, but a naturalized citizen of Mexico, was chosen president. Manuel Arzaga, ex-secretary of the town council, was elected secretary, and a retired officer of the army, Francisco Araujo by name, appointed military commandant.

On taking the chair Prudon said that the aims of the junta were laudable and beneficial, just as well as necessary; that they had their origin in the great underlying principle of natural law, self-preservation; that even the government must acknowledge that this action was a necessary compliance with duty; while the result might be the establishment in the territory of what the people had earnestly and repeatedly asked for, a superior tribunal clothed with full powers to supplement thorough investigation by a final sentence in all grave cases of crime. He concluded by recommending order, the preservation of which was their chief end, since they were defenders, not offenders. Speeches were also made by the military commandant and others, and lengthy resolutions, embodying sentiments akin to the above, unanimously adopted. It was then determined that both the man and the woman should be shot. The junta was declared to be in permanent session until such time as the object which called it into being should be accomplished, and measures to that end

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were after discussion unanimously concurred in. At two o'clock a sub-committee, with a copy of the resolutions, waited on the alcalde, who thereupon convened the town council. At three o'clock, no communication having been received from the alcalde, a message was sent by the junta to that official, notifying him that the time allowed for his action had elapsed, and informing him that the resolutions of the junta were about to be carried into effect. No answer was returned; but the second alcalde, accompanied by the treasurer and another member of the council, appeared before the junta and desired to be informed if that body recognized the legally constituted authorities, and if so, what might be the significance of this illegal assembly of armed men. The former question was answered in the affirmative, and the answer to the latter, the magistrate was informed, was contained in the resolutions which had been sent to the first alcalde.

At half-past three, by order of the junta, peaceable possession of the guard-room of the jail was taken. No answer had yet been received from the first alcalde, although he had sent a member of the council to invite the president of the junta to a conference, to which request answer was made to the effect that, apart from the junta, the president was not at liberty to enter into negotiations. At four o'clock both alcaldes made their appearance before the junta; a resolution of the council condemnatory of the proposed illegal action was read, and an attempt made to dissuade the junta from its purpose. Convinced that their efforts were useless, the authorities withdrew, after enjoining on those present the preservation of order, and receiving the assurance that all measures necessary to that end had been taken.

Repeated messages requesting his presence for spiritual purposes in this connection at Los Angeles had been sent to Father Cabot of San Fernando, but, although he promised so to do, he did not come.

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The junta would wait no longer; the confession of the criminals must be dispensed with.

The military commandant was more compliant than the alcaldes; he caused arms to be given to the firing party, and gave orders necessary to the occasion. At half-past four the president of the junta ordered Alipás to be brought forth for execution. Already his irons had been filed so deeply that a single blow of the hammer released his hands. The man was then shot, and after him the woman. Thus solemnly was performed this first summary act of justice in California.

Mr John S. Hittell, as related in his *History of San Francisco*, was informed by Jacob P. Leese that early in 1836 one Verdugo applied to the alcalde of Los Angeles for an order to recover a deserted wife. The order was granted and the wife recovered. On the way to his rancho Verdugo was murdered by the wife and her paramour. The murderers were taken, tried, and executed by the people, the alcaldes, Manuel Requena and Abel Stearns, interposing no objections. Probably Mr Leese referred to the same affair the account of which I have just given.

Although gold was found by Marshall at the Coloma saw-mill in January, 1848, it was not until midsummer that the people of California would believe the discovery worthy their consideration. When fully alive to its importance they dropped their several occupations and set out for the Sierra Foothills. Everybody went. First the settlers and immigrants; fur-hunters turned to hunting gold, and the Mormons paid Mammon their respects for the moment. Then Benicia, Sonoma, San Francisco, San José, and Monterey were quickly depopulated. And as the tidings travelled southward, and bags of the worshipful dust were displayed to the gaping crowds, lines of diggers were formed from more distant places. Many of these persons were known to each other;

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few of them were wholly unknown; most of them were respectable. They were not thieves, but honest men, who had come into this bright wilderness to dig for gold, and not to defraud their neighbors. Peaceably and in the primitive way each for himself picked the precious substance from river-beds and crevices, washed it from the sands that lined the streams, or sought a spot in which to dig for it, with no desire to encroach on ground chosen by another. Rights were respected; theft was unknown. A pick or shovel thrown upon the ground, sticks driven into the earth, or a written and posted notice to the effect that a certain spot was claimed, was sufficient to secure it against all comers. Miners lived much in the open air, in cloth tenements, or under bushes, or in rude huts, yet they left their gold-dust in bags or bottles unguarded in their tent or cabin. The merchandise of the trader was secured only by walls of cloth which might be opened with the greatest ease at night by means of a pocket-knife. Goods stacked up by the roadside, miles from any mining-camp, remained undisturbed for weeks or months. Horses and cattle were safe on ranchos or by the roadside. So in the towns which sprang suddenly into existence, the rights of property were respected, with no thought of penalties. After the winter rains had ceased and water for washing gold had disappeared, in certain localities piles of rich dirt were thrown up, like garden beds, to be washed out when rain should come again. Though often the result of great labor, and containing much wealth, these heaps lay undisturbed throughout the summer, and when autumn came fell to their rightful owners. Differences of opinion were settled by 'leaving it to the crowd.' The image of a patron saint was not more safe from desecration at the hand of its devotee than was the property of miners from robbery by brother miners. "Men have frequently about their persons thousands of dollars' worth of this gold," writes General Mason in his official report,

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"and it was to me a matter of surprise that so peaceful and quiet a state of things should continue to exist." And so it was the first comers found here less discord than existed anywhere else in Christendom. Would all men were honest; would that serpents had never crept into this Eden!

At the seaport vessels arrived faster than their cargoes could find accommodations on shore, and great quantities of merchandise of all kinds was discharged and piled up along the beach, all around Yerba Buena Cove, from Clark Point to Rincon Point. Much of this merchandise was valuable, and all of it wholly exposed. Yet all this time there was scarcely a lock on the door of any dwelling, store, or warehouse in the town of San Francisco. During this truly golden age of fair integrity it seemed never to occur to these honest folk that there were any in the world who wanted wrongfully to take from them their property. A resident assures me that there was but one case of theft at San Francisco prior to October, 1849. A Mexican stole some blankets from Pollard & Randall's yard, on Clay street, for which he was publicly whipped on the plaza.

Yet earlier than this San José struck a manly blow for legitimate justice. Thomas Fallon, in coming down from the mines to San José, carried twenty-five hundred dollars in gold-dust secreted about his person and seven ounces in his pockets. On the 22d of December, 1848, he camped near San José Mission with three Americans, whose appearance he thought suspicious. He talked with them in a confidential way and told them he had been very successful in mining; that he had started with considerable gold, but a few days before had sent a man forward with all his money to buy cattle. They traded horses, Fallon giving them six out of the seven ounces which they supposed to be all he had. The Americans proceeded on their way and overtook two Germans with eight thousand dollars, whom they

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shot, killing one, the other, though wounded, escaping to San José. He reported his adventure, and search was at once made for the robbers, who were caught within a few days. They were taken to the alcalde's court, where one of them confessed numerous crimes, and said that Fallon saved his life by misleading them to the belief that in the horse-trade he had used all the money that he had left. They were all hanged on the plaza three days later, in January, 1849. From this time crime about San José increased, and executions there became numerous.

During the autumn of 1848 there were no such things along the Sierra Drainage as government, law, law-courts, statutes, constitutions, legislatures, judges, sheriffs, tax collectors, or other officers of the law. All were absolutely free; all were thrown upon their good behavior. And here appeared in its fullest application the sociological law of non-resistance in the absence of restraint. Coercion implies antiposition. It is when placed under lock and key that the strongest desire to escape is manifest. Confine the insane and they are frantic; unlock the doors and knock off their fetters, and nine tenths of those most unruly under restraint become tractable. Crime is lessened, not as punishment is severe, but as it is certain. French school-boys under a system of espionage become tricky, while English boys who are less governed behave better. Debts of honor are usually preferred to those the payment of which may be legally enforced. When gold was the currency of California and legal-tender at a discount, indebtedness to some extent was beyond the reach of law and the courts, and the instances were comparatively rare where an account was cancelled with the depreciated currency. The pencil memoranda of members of the stock board are as binding as their written, signed, and sealed obligation. In these earlier gold-hunting days strangers met as honest men, and a few hours' acquaintance often sufficed to establish confidence. In the absence of

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written law the higher law of probity governed intercourse. Nevertheless, as it pleased the Almighty to make with the good men some few deserving the halter, it is meet these latter should have it with the least possible ceremony.

However all this may be, it so happened about this new society that with Law came Satan. Alcaldes' courts were continued in the larger towns after American occupation, and in the mines local justices and constables were chosen. But the diggers paid little heed to them. They were preoccupied and migratory; let the devil look to his own. Even the merchants of San Francisco seem never to have thought of bolts and bars, until one day James Neall fished up a lot of old locks shipped by a shrewd Englishman on board a vessel which brought to our shores a score or two of Australian convicts. When people began to lock their doors, thieves began to steal. Why were goods bolted in, they might ask, if they were not to be stolen; and what were locks for if not to be broken by thieves?

This coming of the rascals—I suppose it must be taken in common with everything else that is, as for the best. Their influence on California, on the character of the men who made society, was marked and perpetual. Good men are made stronger by the presence of bad men; else the kingdom of evil had been long since overthrown.

Criminals and convicts, as we have seen, were not the first to come. They were not among the most intelligent or enterprising of those who heard of the wonderful discovery, and hence were not the first to move. But in due time it dawned upon their minds that a gold-yielding wilderness without jail or gallows must be the very paradise of thieves. And as if premeditated villainy might be sanctified by numbers, with the multitudes of honest and order-loving men hither came in crowds from the purlieus of crime,

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from convict colonies, human reptiles, emptying cities of their slum, and trailing their slimy course through our fair valleys and into the newly occupied cañons, ready to sacrifice the here and the hereafter, if need be, so they might, like Ethan Brand, achieve the unpardonable sin. In their simplicity the previous occupants of the Foothills might have asked with old Nestor, "Pray, friends, are you pirates?" But there was plenty of gold in the gulches to be had for the gathering. When it could be picked from crevices and river-beds, and washed from bars and banks, what inducement was there to steal it? All the same, the better-minded learned all too soon that there were those in the world who loved to steal, even when honesty better served their avarice. There was enticement in the thought, excitement in the effort, joy-tinglings attending success, and in case of failure—why the best of us have soon to make our final reckoning with time.

With the classic days of 1849 came new pilgrims, a thousand ship-loads of them, by sea and land. So that midsummer saw in the towns which had so suddenly assumed pretentious proportions, and in the long line of mining-camps which had risen like Jonah's gourd along the Sierra Drainage, hordes of eager men of every nation, color, and caste under heaven. There were honest men and knaves, pious men and blasphemers, learned and ignorant, refined and brutish, humane and merciless. Every trade and profession was represented—lawyers, doctors, and preachers; thieves, murderers, and gamblers; bakers, bar-keepers, and butchers; loafers, highwaymen, and prize-fighters; horse-jockeys, bankers, peddlers, grocers, and blacksmiths—a human mess which even Mercury would closely eye before pitching them into Charon's boat; these, made spicy by a sprinkle of female frailty, comprised the population. But by far the larger part were order-loving men of pronounced morals and integrity. Add to these those of passable inten-

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tions and easy honesty, who never take what they cannot reach, nor indulge in drink stronger than strychnine whiskey, nor bet more than a dollar at monte on Sunday; who attend church when houses of ill-fame are closed, and whose word is as good as their bond because neither is worth anything—throw into the scale on the side of virtue this large purgatorial element of *soi-disant* good men, and the genuine first-class villains of the true metal and clear ring were comparatively few.

But these caused trouble enough. Landing at San Francisco, they usually first made the tour of the mines and there formed the acquaintance of other gentlemen of their profession, whose projects they were by this time quite ready to join. And in this new field of enterprise everything seemed to favor them. Besides congenial companionship, and the absence of strong government, the physical aspect of affairs was all that the most ambitious could desire. The nature of the wealth for which all were striving, golden; the constant moving from place to place of miners and traders, and the intermixtures of strangers, all tended to discourage inquiry, to facilitate the operations of outlaws, and allow them to move quickly from place to place without exciting suspicion. In particular, the lonely and exposed condition of the roads throughout California, and the large amounts of treasure constantly passing over them, offered alluring opportunities for highway robbery; and while these opportunities were not wholly neglected, yet I do not know that this crime has at any time prevailed to a greater extent here than in any other sparsely settled country. Stage-robbing as practised by the profession in California was rather a chivalrous occupation; the gentlemen of the road risked their lives for whatever happened to be in the express-box, and if no opposition was made they generally contented themselves with this, and neither robbed nor insulted the passengers.

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Along these roads, during the heavy winter rains of 1849–50, were hundreds of mired wagons, laden with supplies for the miners. Such was the nature of the soil, so cracked with dryness in the summer and so spongy soft in winter, that in the absence of a beaten track a loaded wagon would sink to the hubs almost anywhere about the skirts of the Foothills.

Hence arose two causes stimulating crime; the mining-camps were short of provisions, and the supplies intended for them were left exposed as a tempting bait to the hungry and forlorn. Add to this that by reason of the extreme wetness of the season the streams were so swollen that miners were driven from their claims, so that thousands, 'dead-beat and broke,' as they would say, were obliged to take refuge in the towns and get through the winter as best they could. The epoch of crime in the interior may be said to date from this time, and to have originated in a great measure from these causes.

Sometimes in the spirit and with the grace of young bull-dogs, these adventurers of evil would begin their gambols immediately they came ashore; watching, for example, the landing of their captain, who had incurred their displeasure during the voyage, seizing and ducking and beating him, if indeed they did not kill him outright.

The English convicts from Australia, who from the spring of 1849 to the summer of 1852 were the worst element infesting the community, made their headquarters in San Francisco, at the base of Telegraph Hill, near the foot of Broadway. On one side rose the hill, broken and rugged, throwing out spurs in various directions, and presenting in places to the rippling tide a lofty bluff on whose summit even the squatter had not yet ventured to perch his eyry; round the base and up the little ravines were huts and tents not much larger than kennels, and divers-fashioned dwellings

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huddled or scattered indiscriminately among low cabarets, and dance and drinking houses.

The rendezvous of the thieves, in the heart of this district, was called Sydney Town. South-west of Sydney Town was Little Chile, and farther yet in the same direction China Town; the Hispano-Americans congregating about Dupont, Kearny, and Pacific streets, and the Chinese at the intersection of Sacramento and Dupont streets. Although Little Chile supplied the community some criminals, the Hispano-Americans were more a worthless and vagabond people than a vicious people. They were the early victims of evil-minded Americans and the men of Sydney. In Sydney Town during the day schemes were concocted to be worked out during the night. The meetings had their orators, and the pillaging parties their leaders. Singly or in pairs they would perambulate the unlighted and unwatched streets, robbing, demolishing, or murdering, as passion or fancy dictated. They had a way of enticing or forcing their victims to some eminence bordering the Bay, and thence hurling them to their death. The beach round the northern point of the peninsula was at one time little better than a golgotha, for the human bones washed up there by the tide or buried by the sand.

After the fire of May 4, 1851, more than ten thousand dollars' worth of stolen property was recovered from these dens. Such a conflagration to the thieves was like the finding of a carcass to vultures; from their cesspool of corruption they swarmed in to take advantage of the misfortune of others, to pluck the unfortunate of the few effects they had been able to save.

And at the country towns it was proportionately bad. These same malefactors, or others, would meet in some suburban tent and there conspire against the well-being of a society preoccupied, unorganized, and unprotected.

Upon the surface of society there did not all at

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once appear the fermentation going on beneath. And when from the mass gas-bubbles were seen to rise, they were lightly regarded as the momentary caprice of harmless *quidnuncs*. Gradually however the saccharine substance in this element of society underwent change, and the alcohol and acid of open villainy was only too soon apparent.

If we except a few irregularities in various parts of the country, we may date the advent of violence in midsummer, 1849. The wonder is that it did not appear sooner; that the widely diverse and heterogeneous ingredients of this mixture did not sooner act on each other; that ignition and explosion did not more quickly follow.

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CHAPTER V.

THE HOUNDS ASSOCIATION.

Prince Henry. Where shall we take a purse to-morrow, Jack?
Falstaff. Where thou wilt, lad; I'll make one; an I do not, call me villain and baffle me.
Prince Henry. I see a good amendment of life in thee; from praying to purse-taking.
Falstaff. Why, Hal, 'tis my vocation, Hal; 'tis no sin for a man to labour in his vocation.

King Henry IV.

Every problem of humanity is but a display of some new combination of those primary elements of human nature which, like the elementary principles governing matter and force, underlie all activities. Common salt will not crystallize on the same system as sulphate of soda; so units of human societies in their intermixtures behave differently according to character and combination. Yet man-particles, in their aggregations and evolutions, act no less under fixed laws than do matter-particles.

Not the least unaccountable of human phenomena is that manifestation of brute force which breeds tyranny. That men should love to beat, and batter, and bruise one another, not to secure some good, but in spite of those evils which such conduct is sure to bring upon them, is unaccountable, save as an elemental quality of the evil principle inherent in nature human. The propensity in man for killing is insane as compared with the same propensity in the brute. The latter could give a reason if it would; man has none. The reasoning faculties given him by which to guide his conduct in ultimate appeal he flings aside,

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dehumanizes himself, and no matter how far advanced in holiness of living or in intellectual culture, he thrusts his fingers into the latest invented claws furnished him by science, and straightway falls to flesh-tearing on such a scale as puts to blush the efforts of the tiger and the bear.

The brute creation man kills for food and clothing—material comforts; his fellow man he kills for pride, for glory, for hate, for religion—ideal comforts. War is waged with equal fervor by savage and civilized, by heathen and Christian. It is an element alike of the most degraded passion and the most exalted piety. In mediæval times the attention of mankind was divided not unequally between the arts which cherish life and the arts which extinguish life. One's whole duty lay in preserving one's own life and in striving to take the life of one's neighbor. So long as these efforts were evenly balanced, and their necessity fell alike on all, no great progress could be made in the arts of war, or advancement in the arts of peace. Whensoever for a time peace reigned rejoicing, the arts of war were pluralized, so that with them if he would man could achieve a yet more substantial peace.

So it is with regard to the supremacy of justice. But mankind will not yet have unadulterated peace or justice. There is in every one of us an inquisitor. Where is the patriot who would not tyrannize if he could? Where is the zealous religionist who would not, possessing the power, and left to the impulses of his own fanaticism, make every man of his faith or creed? else he would for Christ's or Mahomet's sake nominally, though in truth for his own sake, kill him. Evolve man if you will from matter; that which distinguishes him from any lower form is this unanalyzable intermixture of deity and deviltry.

The memorable year of 1849 had not yet dawned when it was whispered that villainy was banding in California. Strange to say, its first appearance here

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was in the habiliments of charity. That delectable troop, the regiment of New York volunteers, was made up to a great extent of the riffraff of eastern cities. Of no value at home, they were brought hither at public expense to fight Mexicans, or Californians; which being found unnecessary shortly after their arrival the company was disbanded. Having no occupation, and averse to labor, naturally many of them fell back on their old pastime of pilfering.

The opportunity, however, to season their rascality with a little sentiment was too good to be lost. Had they not shared as brothers the dangers of the deep? Were they not brave men, soldiers, heroes, though they had never fired a gun; and did not the country owe them a debt of gratitude which sanctified any villainy? So they organized themselves into a kind of benevolent association, a self-protection and relief society, and called themselves the 'Hounds,' which was a very appropriate name. They were likewise known as the 'Boys,' after the fashion of the New York Bowery, where many of them used formerly to sun themselves.

Criminal intent does not appear as a part of their original purpose; indeed, as the alcalde Leavenworth testifies, some of them had been employed by him to assist in carrying out the ends of justice. Previous to the forming of that acquaintance which led to villainous vows of friendship and fidelity, and nothing loth to wear for a time the garb of respectability, many of them at first engaged in various occupations, such as mining, blacksmithing, hotel and saloon keeping, but they were not long content to work for that which they fancied they could more easily steal. Indeed, one of their fundamental principles, practised before it was formulated, and the first and broadest plank in their platform, was that others should feed and clothe them. The workingmen of California, the honest and industrious, should furnish them shelter, with strong drink, tobacco, and other luxuries. In return for which support, did California desire the

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interloping 'Greasers' annihilated, they "were the boys to do it." Or lacking such patronage they would exercise their club diplomacy somewhat on their own account. Like bulls infuriated over red, they had their mad color. Black was bad enough, but copper-hue they hated, whether in the form of Mexican, Chilean, or Chinaman. They were soon joined by the men of Sydney, who now began to appear upon the scene, and by low politicians from the eastern states, besides the newly arriving shoulder-strikers and deserters. Here was the scum of diverse foreign societies uniting amidst the ebullitions of our new society as naturally as impure particles unite upon the surface of boiling liquid.

Whatever may have been their intention originally, elements like these joined under such conditions could not long exist without evil results. Soon it was understood that lawlessness and crime were the primary purpose of the association, and by the spring of 1849 subordinate societies with a common grip and password were scattered throughout the entire mining district of California. Here was a great power for evil, with its fangs already at the throat of our infant community.

As might be expected, the Hounds directed their early attention to politics. It is by such as these that our country is in too great a measure governed. It is such as these that San Francisco to this day is forced to support and serve. It is such as these that too often are our rulers; we make them such, fools that we are.

The Hounds made their headquarters in a large tent, later known as Tammany Hall, standing where now Commercial street crosses Kearny. Such was their strength, that with unblushing impudence they would bring to this so public a place the spoils taken at night, and there eat, and drink, and sleep throughout the day, with none to make them afraid. There were other places where they used to congregate; the

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City Hotel near by, and the Shades Saloon whose keeper's name was Patterson. Their harem was the valley called the 'Hollow,' near, or forming part of the Chilean quarter; and the dusky nymphs there denizened by no means helped to quench the fires of hate already burning in the breasts alike of their countrymen and of their fairer-hued lovers.

Their time was chiefly divided between eating-houses, saloons, and clothing-stores, which were pillaged for corporeal necessities, and the huts of foreign emigrants, which were sacked and destroyed upon principle. Their attacks were confined chiefly to strangers, whose friendless condition forbade defence.

During the whole period of their administration it was the custom of these *chevaliers d'industrie* to parade the streets on Sunday in fantastical attire, but until toward the latter part of their term, if we omit occasional fights and street brawls, no open outrages were committed, though private thefts, and even darker deeds, were frequent.

Besides their regular Sunday divertisement, in which they affected a sort of military discipline, marching with flying colors, their leaders in military uniforms, to the music of fife and drum, they sometimes improvised pranks and antics for the amusement of the public. For a time, as I have intimated, the actuating motive seems to have been a silly love of display rather than open violence. Vanity, however, often leads to villainy. Said Sheridan once to Lord Holland: "They talk of avarice, lust, ambition, as great passions. It is a mistake; they are little passions. Vanity is the great commanding passion of all. It is this that produces the most grand and heroic deeds, or impels to the most dreadful crimes."

In the evening after their public gambols it was usual for the Hounds to scatter about the little metropolis and throw out gentle hints, or more peremptory demands, for whatever they happened to want. Like the tiger's whelp which chases the sheep at first only

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for the sport of seeing them run, but once tasting blood becomes ravenous for more, so these young human Hounds began their play upon the people, scarcely knowing what they did, but coming to grief full quickly enough, however, as they thought. For, growing more and more boisterous in their displays, with increasing numbers, they began, toward the end of their career, first to intimidate, then to assault, and finally they did not scruple to try open robbery and murder.

Under some ridiculous plea they would sally forth from their tented Tammany, and with threats of violence extort money or goods from whomsoever they thought prudent to attack. They would invade saloons and call for drink, enter restaurants and hotels, and rudely demand food, after receiving which they would walk away without offering pay. On one occasion they fed from the tables of Jules Rousson, keeper of the United States restaurant, and gave in payment an order on the alcalde, which the latter refused to pay. At another time they broke down Rousson's doors and helped themselves to food. Stores they would enter, and selecting such goods as they fancied, carry them away, or help themselves to whatever they required from exposed piles of merchandise; and so strong had they now become that no one durst say them nay.

Though their outrages were directed chiefly against foreigners, they did not hesitate to attack Americans if offended by them. Indeed they became quite enterprising at last, even philosophic, and seemed to think with Socrates that there is something in this world nobler than mere ease and personal safety.

A gentleman informs me that as he was passing the Parker House one day, he saw a negro entering the office, and a lieutenant of the Hounds just behind him. The negro turned and accidentally touched the rowdy with his elbow, when the fiery young knight

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whipped out his bowie-knife and cut off the black man's ear.

One morning two gentlemen entered the coffee-rooms of an old Frenchman, situated on Kearny street, opposite the plaza, on the site since occupied by the Jenny Lind theatre and the old city hall, and called for breakfast. Presently in came thirty-five or forty of the foul fraternity, hungry as cormorants, and ordered food. Pounding the table, they called loud and constantly, "waiter!" "waiter!" hurrying the poor garçon hither and thither until he was half dead with fatigue and fright. Meanwhile the two gentlemen could get nothing to eat. At length the craving of the rabble company being satiated, their leaders rose, and stepping up to the counter, turned their backs to it, and called out: "Fall in! Right about face!" Then turning to the restaurateur, one of them demanded:

"How much is to pay?"

"Two dollars each," was the reply.

"Charge it to the Hounds," he said. "Left face! Forward, march!" and out of the door they went, never paying a dime for what they had eaten.

Isaac Bluxome landed in San Francisco from the bark *Madonna* early in July, 1849. He brought out with him the frame of a wooden building which he set up in Sacramento street, between Montgomery and Sansome, being the third house erected in that street. Scarcely had he opened business when he was brought face to face with that phase of crime of which he was so soon to be the scavenger. A queer-looking customer entered one day and began to price his goods. He was little more than a boy, rather below medium height, slightly built, with a pale, sinister face, and dressed in a red woolen shirt, buff pantaloons tucked inside his boot-tops, a well-mashed slouched hat, and hanging at a leather belt a pistol and a butcher-knife. Picking up a plug of tobacco, he said:

"What do you ask for this?"

"Two dollars," said Bluxome.

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"That is too much; you must not charge so much."

"That is my price; you can take it or leave it."

"Do you know who I am?"

"No, and I don't care who you are."

"I am captain of the Hounds."

"The devil you are," answered Bluxome. "Well, you look like a hound."

The fellow did not like Bluxome or his words, and after eyeing him for a moment he walked away without further remark.

There was little system in trade at that time, either in the kind of goods kept by the merchants or in the prices asked for them. Each dealt in whatever happened to fall into his hands, and asked whatever price he pleased, irrespective of that of his neighbors. Entering a tent store one day, where a great variety of merchandise lay exposed for sale, a quiet, modest, undemonstrative Hound picked up a pair of fancy patent-leather gaiters, which he thought would set off his somewhat small and well-shaped feet to the best possible advantage. They were wholly worthless, but little stronger than paper, cost probably in New York a dollar or two, but being brightly polished they had caught the gentleman's eye, and as business had been good of late he determined to indulge his vanity to that extent. Besides, his order was coming into notice more and more every day; parades were more frequent, and it was but meet he should make a becoming appearance.

Seating himself on a box he took off his shoes, and giving them a fling which sent them over behind some goods at the other side of the tent, he took up a pair of the glittering gaiters, drew them on his feet, and rising and putting his hand in his pocket, demanded: "How much?"

"An ounce," was the reply.

The dust was promptly paid down, and the nice young man walked away no less satisfied than the store-keeper. Next day returned his houndship. On

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his calm features there was not visible the slightest shade of annoyance, ill-temper, or disgust. Threading his way quietly round the piles of merchandise stacked upon the floor, he fished out his old shoes, seated himself on the same box, drew from his feet the shining gaiters, now burst open in several places, put on his old shoes, and walked away without saying a word.

There was one way in which these Hounds were of service to society. I had come near unwittingly doing them an injustice. They were ever ready as jurors. He who had suffered wrong, and who, remembering the high privilege of an American citizen, sought the remedy, might here have trial by his peers. They were also good as witnesses, always ready faithfully to testify in whichsoever direction they were paid. They were good to drive off from lands squatters, or rightful owners; it made no difference to them in whom the title was vested. They were useful at the polls on election-day, voting early and often themselves, preventing others from voting, and at sunset guarding the ballot-box while it was being stuffed. If you wanted a house fired, a man beaten, or a murder done, they were always at hand to serve you for a consideration.

Nor were they without their worship and their benefactions. If the image of Mercury, the god of thieving craft and cunning, was not set up in their Tent of Tammany, none the less was his spirit there adored. Of all the world could give, this was the life they loved. Opportunity and environment were to them as sword and steed to the cavalier, or wine to the heavy of heart; their tent was the temple of their god, and their traffic better than winning souls. And it was wonderful their influence on the unanchored element then drifting on the flood-tide into this port. What do we see in crossing the Plains? The most stupid clod of a horse, half-starved and fagged with travel, when suddenly surrounded by a band of wild mustangs quickly becomes as unmanageable as they.

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Even the culture of intellect is the result of absorbed vice, while the efforts of plodding virtue flow off like water from a smooth stone.

It is by no means certain that the advent of vice in this infantile form was not the best thing which could have happened to this young community at this time. California were not California had her battles with iniquity never been. Men who aim at respectability become so absorbed in their money-gettings as to be little better than machines, turning aside for nothing, for neither Christ, their country, nor the devil. It needs an enemy threatening their pet passion to unite them. They would form no brotherhood of virtue until driven to it by a brotherhood of vice.

Whence then the evil, these wicked ones might ask, and of what do you pious people complain? To make a world nature rushes from one extreme to another; from the extremes of heat to the extremes of cold; from an age of fire, of volcanic lava-formations and rivers of molten rock and skies of mineral smoke, to an age of snow, and ice, and cañon-carving glaciers. So it is with the formation and refining of human societies. It is the equalizing of extremes that brings one ever nearer to one's rest. Then why war with evil if it so befriend you? What is evil, oh ye saints of prudery and conventional creeds! Can you not see with all your stupidity and bigotry that evil is not a concrete entity, but only a measure denoting the absence of good, as cold is but the absence of heat? There is no such principle in humanity as abstract good aside from evil, any more than in a mass of molecules attraction can exist apart from repulsion. We are as necessary to you, prim fools, as you are to us. Every thing, every force, power, quality, principle, element, or idea has its antithesis, exists in duality, is twofold in its entity and action. Like the repulsive force in matter, this negative soul-principle acts among individuals, impregnating every germ, arranging into form the

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molecules of society, shaping outlines and sharpening angles, pushing hither and thither, by impulses imperceptible, individuals and groups of individuals according to the great plan of our one and universal master.

The normal condition of humanity is a state of well-being, else there is a speedy end to all. But the mass needs leaven, else it is flat and unprofitable. The principle of evil dropped into it by an incomprehensible Almighty, the tendency of humanity is ever after toward an equilibrium. None but babes in intellect talk of an independent, self-existent power or principle antagonistic to omnipotence.

When we understand the nature of heat, then we can tell what cold is; when we comprehend the principle of good, we will be able to understand the phenomena of evil. Whatever good is, the tendency of everything is in that direction. What means otherwise the gradual disappearance of savagism, the progress of the intellect, of morality, of religion? Therefore if evil tends to disappear, and is surely century after century becoming less, we may safely conclude that with time it will be totally extinguished.

Now it is well known that there is no such possibility in nature, or in the imagination of man, as the total extinction of a concrete entity. If therefore evil is extinguishable as a concrete principle, it does not exist. Evil as an entity does not exist; good does. The world acts upon this principle, whether it is believed in or not.

What force underlies the underlying force that drives steamships and manufactories, the mainsprings of commerce? What is the chief stimulant of progress? Not love of knowledge, patriotism, philanthropy; all these are puny in their efforts at progress. What then are the mighty powers that move mankind? Avarice, vanity, the desire to kill your neighbor and keep yourself from being killed;

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these are the god-like doings that bring to birth your boasted brotherhoods, your acts and industries, and which overspread the thorny path with coverlets of Christian charity. So might have reasoned these human Hounds in their Tent of Tammany.

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CHAPTER VI.

THE SAN FRANCISCO SOCIETY OF REGULATORS.

> Lo, when two dogs are fighting in the streets,
> With a third dog one of the two dogs meets,
> With angry teeth he bites him to the bone,
> And this dog smarts for what that dog has done.
>
> *Fielding.*

With increased numbers and opportunities, the Hounds Association put on new dignities. Becoming somewhat ashamed of their canine appellation, they changed their name to that of the San Francisco Society of Regulators, and organized and officered their body after the usual respectable models.

Let it not be inferred from the name, however, that the Hounds had become guardians of the public weal, or that this was a popular tribunal proper, or a committee of vigilance. By no means. It was the good men and their affairs that this band proposed to regulate, and not the evil-minded and profligate. And to their assistance came now demagogues and aspiring politicians of greater bulk than their predecessors, and of more sweeping pretensions. With settled policy and defined purpose they would go forth conquering and to conquer. The one phenomenon was but the natural sequence of the other. The first association was the boyish play of vice, while the second walked boldly forth in the full manhood of concrete villainy.

Wickedness the Regulators saw was in the ascendant. No one appreciated better than themselves the fertile field of opportunity. Already the seed had

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been sown by the young imps, who seemed to lack the ability to harvest the crop. It was for wiser heads to utilize their redundant resources, to give object and direction to their knavish proclivities. The general laxity of morals, the inefficiency and venality of law-courts, and the apparent indifference of the best men to the welfare of the state, all encouraged their aspirations.

That affairs needed regulating was clearly apparent to all; and the indifference manifested by business men as to how or by whom they should be regulated, emboldened the loafing element to assume that duty. The first fraternity was still to furnish the material. The municipal government had not hesitated to use the Hounds in order to secure the ends of justice; the Regulators now did not hesitate to use the same instrument to defeat the ends of justice. Thus against Justice, besmeared by evil companionship, were turned her ministers, who caught her in her own trap; as the wily wanton Vivien, knight-hater of King Arthur's court, seduced from Merlin his secret charm, and straightway Merlin, her first victim, lay in a hollow oak as dead.

To the benefits offered by the Hounds in associating, the Regulators added political favors or emoluments. Beside assuming knightly honors and setting themselves up to be redressers of public wrongs, whose mission it was to defend the national soil against encroachment, they proposed likewise to relieve Americans of the burdens of government, save only the little matter of taxation, which should not be severely felt, the people having their whole time at their disposal.

An initiation fee of ten dollars was paid on entering, and in return each member was to be cared for in case of sickness, supported when penniless, and extricated from any trouble which by chance he might fall into. No qualification as to character was requisite to membership, except that it should not be painfully

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bright. The declared principles of the association were originally easy and free enough, and in action they became more so every day.

It was a model system of vagabondage, a Platonic republic for vagrants and blackguards, and might most truthfully have been named a Society for the Promotion of Vice, or a veritable Hell-fire Club. Half a day's work at that time would secure the initiatory ten dollars; or if that was too much trouble, the aspirant for membership might steal it. Once in, happiness was forever secured. *Bois tortu fait feu droit.* Protection, shelter, good-fellowship, and light scruples; what more could profligacy ask even in California? "It is all one to a stone," says Marcus Antonius, "whether it be thrown upward or downward."

There was little difficulty in their regulating elections, ordinances, and jurisprudence; population was not so permanent then as now; men were coming and going, hurrying hither and thither, few manifesting any interest in the welfare of the community, and those few scarcely distinguishable. The young metropolis was good for nothing but to be fleeced, and should any person object, they must be regulated. This so early political party in California was characteristic of the times. It was the pestilential quagmire of society; nor is the pool wholly translucent now.

For five or six months, namely, until the middle of July, 1849, this band of ruffians exercised their terrorisms over the community. Their ways were dark at first, and their councils secret. They were without organization for a time, but rapidly into evil eminence there rose from the ranks of this gang certain ruling spirits, with one Samuel Roberts as chief, who worked them up into a state of such efficiency that soon the entire city was laid under contribution. There is little doubt that many of their acts were countenanced by the alcalde, Leavenworth.

One of their number, Joseph T. Downey, asserts

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that the origin of the organization was a physician's bill against one or two of the Hounds, amounting to some two hundred dollars. Having neither the money nor the inclination to pay, they determined to declare, among themselves at least, their position, which was that the public must support them. They would be public servants; they would pay no bills. It was necessary that they should have more money than the initiation fee yielded them. From rendering assistance to the alcalde and sheriff in their deplorable attempts at municipal government, the Regulators undertook to administer justice on their own account. Certain of their number had been called upon to inflict the punishment of whipping on a sailor sentenced by the alcalde for drawing a knife on his captain. Thereupon they undertook to whip by order of themselves. When the sheriff found it difficult or impossible to collect bills placed in his hands for that purpose by real-estate owners, merchants, and others, he recommended the claimants to give such accounts for collection to the Boys, who had a way of their own, swifter and surer than that of the alcalde, for the settlement of differences. From the seizing of property for the satisfaction of a debt to the seizing of property for the satisfaction of themselves was but a step, and unblushing imposition was the natural consequence.

Thus, like the giant Caligorant, justice was caught in its own net. Scarcely had the mines been opened, when a strong feeling sprang up against foreigners. Citizens of the United States deemed their rights superior to those of foreigners, who were allowed equally with themselves to gather gold and carry it from the country. The soil was theirs, they said; their brethren had fought for it and their government had paid for it. Up to this time there had been no outbreak, although the determination was daily becoming stronger and more universal to resist encroachment and expel foreign vagrants from the mines.

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Against the mongrel class from Chile, Mexico, and the other Spanish-American states north and south of Panamá, this sentiment was most united, and so unsafe became the situation of these foreigners that during this summer the roads were full of them returning from the mines. And with them came many of their persecutors.

Upon this platform then the Society of Regulators was finally organized, with C. R. V. Lee as president; W. Anderson, vice-president; J. T. Downey, secretary; J. A. Patterson, treasurer; and J. C. Pullis, steward. The aforesaid Samuel Roberts was chief rioter and master of the military. California should feed and clothe them, and pay them well for their outrages. They proposed to live. They would assist at any time the impotent authorities, if the authorities wished their aid and would pay them; and they would just as readily break the law, and defy the authorities, if such a course best suited their purpose. With the coolest impudence they asserted their determination to protect American citizens against Spanish-speaking foreigners, and sometimes claimed to have instructions from the alcalde to extirpate the Mexicans and Chileans.

Thus things stood when, on the night of Sunday, the 15th of this same July, occurred an affair which brought matters to a crisis. It appears that one George Frank, a merchant, held a claim of five hundred dollars, for certain commissions attending the purchase of a lot on Montgomery street, against a Chilean named Pedro Cueto, who refused to recognize the obligation or pay the amount. Frank gave the bill to the sheriff for collection. Cueto told the sheriff he would not pay it, and the sheriff reported to Frank.

Now it so happened that the sheriff was none other than J. C. Pullis, who was likewise steward of the Regulator Society. This was the worst feature in the case, and shows how interwoven were crime and

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punishment, when an officer of the law and an officer of the lawless were one and the same person.

"If you will get the Boys to assist you," said Frank to the hound-sheriff, Pullis, "I will give you half the amount collected." Accordingly the bill was handed to Roberts, who, pretending to have been sent by the alcalde, called on Cueto and quietly informed him that unless he came down handsomely, say with three or four hundred dollars, he would speedily be upon him with forty men. Cueto declining to pay, the Regulators proceeded to the avenging of justice after their own fashion.

And here I can but call attention once more to the singular state of law and administration which allowed an officer of the law to deputize a notorious band of desperadoes for the lawless enforcement of an unproven claim. Of a truth it would be difficult to say which had reached the lowest depth, law or villainy!

On the Sunday afternoon mentioned, at about one o'clock, the Regulators paraded in full force, with drum, fife, and banner, and epauletted officers. There were about one hundred of them. They were just returned from a marauding excursion to Contra Costa, and they determined to finish the day with deeds long to be remembered. So swollen by hatred and excitement had become the purpose of the Hound dictators, that the matter of Frank's bill was almost lost sight of. Their intention now was none other than to drive all Spanish-Americans from the city as they were being driven from the mines, and the final blow was to be struck that afternoon or evening.

Sam Roberts commanded; and it was noticed that he was more than usually grave in his demeanor, and concerned as to the condition and movements of his men. Supper was taken at a restaurant, where an eye-witness says that Sam behaved badly; that from his former reserve he broke into angry impatience, and to give more forcible expression to an order for a gin-

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cocktail appetizer, he kicked over a table and broke a few glasses.

The company then proceeded to get up steam for the grand assault. This was accomplished by entering various saloons and demanding drink and cigars; if not instantly and cheerfully produced, the rioters would go behind the bar, help themselves and their associates, then smash a few decanters and mirrors as a gentle admonition that politeness sits as gracefully on a saloon-keeper before society servants as on Belisarius begging an obolus. Sam's men would have it made simple to these knights of Bacchus that, in the absence of awe-inspiring *lex scripta*, there was nothing left but to fall back upon the *lex non scripta*, the unwritten or common law which underlies all law, the which failing there was yet the *lex talionis*, or law of retaliation, a practical illustration of which was now before them. Expediency should be their motto, as it is the motto of all who seek to do the public good. There is a time to pipe, and a time to dance; a time to promise, and a time to perform—except for politicians. The fear of God should ever be before the eyes of the people, and respect for rulers, though from necessity or expediency they are for the time being denominated Regulators. Fear God; but only God manifest in the flesh, not the holy spiritual God beyond the sky. *Tempori serviendum est.* Bow to the powers that be; bow to the sovereign Regulators of the people; bow to the devil if so be glorious exaltation shall follow. When personal ambition stalks abroad, let principle give place; Cicero must choose between Pompey and Cæsar.

There was yet another wrong which this night's work should right. In one of their marauding excursions some time previous, it happened that a Chileno had the hardihood to defend his property and family honor from brutal assaults, and in doing so had accidentally killed a bystander named Beatty, an American, though not a member of the band. To

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seize, confiscate, and sell to the highest bidder the tent and effects of one who had dared to strike a blow in self-defence was not enough. The blood of their murdered countryman called from the ground for vengeance. This night should see his inquiet shade pacified.

Sam drank sparingly that day; the potations of his men he sought to regulate according to their several capabilities. The time having arrived, armed with pistols, knives, and clubs, and with patriotic enthusiasm and liquid fire, they filed off and marched rapidly down the street to the Chilean quarter. In answer to the question, "What are you going to do?" they unhesitatingly replied, "We are going to whip and drive out every damned Chileno in town."

Rousing with blasphemous yells and pistol-shots the peaceful inhabitants of this then somewhat remote vicinity, they attacked the unoffending foreigners as they crawled from their dwellings, struck them down, and beat them with clubs, stoned and kicked them while lying half senseless on the ground, and finally, drawing their pistols, they began a promiscuous shooting, which resulted in one killed and several wounded, not to mention those bruised with clubs and cut with knives. The tents were torn down, household effects and merchandise stolen or destroyed, and the women and children turned into the street. It was in truth a disgraceful scene; blood flowed freely, and the cries of the defenceless mingled with the oaths of the assailants. Several mounted horses and chased the Chilenos through the town and up Telegraph Hill, firing on them as they ran. The tent of Domingo Cruz, at Clark Point, remained unmolested until half past nine, when twenty of the gang entered it with drawn pistols and demanded drink. Then they fell to breaking bottles and beating the inmates, saying they had an order from the alcalde to destroy every Chilean tent in town. From the tent of Domingo Alegría, after wounding the inmates and destroying

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such property as they could not carry away, they secured two thousand dollars in coin, and jewelry to the value of fifteen hundred dollars. Then they demolished the tent and departed. After the first grand assault the company split into detachments of about twenty men each. These would make raids in different directions, then retire to the plaza or thereabout, whence after a short respite they would sally forth again.

During the turmoil Sam was ubiquitous. While in the heat of the fray, battering heads and tearing tents most lustily, from a distant part of the field the cry was frequently heard: "Where are the Hounds?" "Where is Sam?" And the answer would come, "Here I am!" Then they would fall to with new vigor.

Thus during the whole afternoon and evening of that Sunday, and all through the night until the following morning, these desperadoes continued their unblushing villainies without any interference from officer or citizen, extending their operations to other parts of the city wherever a Chilean tent could be found. They made no attempt to cover their crimes; daylight and darkness were one to them. Indeed there was nothing to fear. The law was powerless; there was no police; the alcalde was quiescent; the sheriff was a member of the gang; and the merchants and mechanics of the town were either attending to their business, or enjoying a sacred rest, dreaming of dollars, and creeping all the earlier to their beds as the sounds of brawls and rioting fell upon their ear.

When the young metropolis awoke next morning and rubbed its eyes, a new light seemed to break in on its citizens. Their situation was unique; never had they seen such sights, or heard such words, or thought of such things as now dawned upon them. Were they indeed where no law was? What were these spawn of Hecate who in the name of protection committed pillage and murder? The white owl of the

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north is well-nigh invisible in the snow; so it may approach its prey unseen. In the opaque congeries of character heaped round Yerba Buena Cove, how shall we distinguish the human qualities hidden beneath the orthodox woolen shirt and bushy beard? Many a whilom saint is now a sinner; many a whilom thief sleeps in our warehouses. The ways of humanity in its new combination are past finding out. Circe, the bright-haired daughter of the Sun, in her enchanted isle of Æaea amidst her fawning spell-softened wolves and lions, was not more treacherously lovely when with her wand she changed the companions of Ulysses into swine, than was audacious roguery, lapped by flush California, to the brainless adventurer. Whether vice is a disease or not, it is no less epidemic than small-pox or cholera; in this heterogeneous human mess, if we are to know our bedfellow, give us a new university with professors of the passions, doctors of intemperance, analysts of licentiousness, and curators of crime.

Young San Francisco was fairly aroused. Fear took hold on the money-makers, and indignation; they swore in their hearts that these things should not be. Monday morning bright and early saw them bent on a new business, which was nothing less than to regulate the Regulators. And they went about it with their characteristic energy. They had but little time to waste at that kind of thing; and after all a hundred Hounds were not many.

On the Monday following the Sunday's outrages, at the corner of Clay and Montgomery streets Samuel Brannan mounted a barrel and addressed the people. As the crowd increased and the streets became so filled with eager listeners that many could not get near the speaker, a motion was made to adjourn to the plaza, which was done. There Mr Brannan took his stand on the roof of the one-story building occupied by Mr Leavenworth, the alcalde—opposite the plaza on Clay street, in the rear of the City Hotel—and

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there continued his speech. After he had finished Frank Ward addressed the meeting.

It was in very deed putting the law under their feet; this taking a stand upon the top of a court of justice, and crying to the community to purify the court and mete out justice irrespective of inefficient formulas. It was significant of the times, and of the people. That little tenement of legal fustian was scarcely a feather in the way of those who now grappled the evil which they proposed to cure. Frank Ward was a fearless little fellow, a perfect catamount of courage when aroused, and as pompous and ranting as king Cambyses. Brannan, too, at this time was full of courage and bravado. While he was speaking, he was informed that the Hounds were moving among their adherents, and threatening to burn his property.

The effect of this statement on the speaker was to make him denounce the thieves the stronger. Pale with anger and excitement he stood before them. They were a dangerous element; they deemed themselves invincible; in their opinion they were mightier than the law. They were now assailed from a new quarter, and their very existence depended on prompt action; so that it was dangerous to force them to the wall. Brannan, however, was thoroughly aroused. Certain voices of the rabble grew louder, and presently pistols appeared with demonstrations of shooting. Perceiving which, Sam hurled on them a torrent of his choicest invective, meanwhile baring his breast and daring them to fire.

The speaking finished, the people collected were formed into four companies of one hundred men each. Captain Spofford was appointed chief marshal; and of the companies Hall McAllister, Isaac Bluxome, Jr., A. J. Ellis, and F. J. Lippitt were chosen captains. Lots were then drawn by the captains to determine which company should first stand guard, the duty being to watch the city and hunt the Hounds. The

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lot fell on Bluxome. Stationing detachments in various parts of the city, with ten men he proceeded to an adobe building, corner of Broadway and Powell streets, where he was informed Sam Roberts slept. Breaking in the door which did not open to his knock, he learned that Sam was not there, but that he had pitched his tent some way out on the Presidio road. Thither Bluxome proceeded, but the captain of the Hounds was not there. Others went in other directions. Roberts was hunted everywhere. Tammany Hall was likewise invaded; the nest broken up, and several of the gang taken prisoners.

Meanwhile a number of gentlemen visited the alcalde and requested that steps might be taken for the restoration and maintenance of public peace. Thereupon a proclamation was issued calling a meeting of the citizens at three o'clock that afternoon, at which time appeared upon the plaza the largest gathering California had yet seen. The people were profoundly moved. W. D. M. Howard was called to preside, and Victor J. Fourgeaud chosen secretary. At the close of loud and lengthy public discussion a subscription for the relief of the sufferers by the riot was opened at the Parker House. Two hundred and thirty citizens then enrolled their names for police service, and formed themselves into six companies for immediate action. The Regulators, watching these proceedings, now began to scatter, but before sunset seventeen of them were arrested and secured on board the United States ship *Warren*. Roberts, the redoubtable, found snugly stowed in the hold of the schooner *Mary* bound for Stockton, was arrested by Hall McAllister, and his comrade Curley was picked up at the Mission.

Another citizens' meeting was held at Portsmouth Square the same day, at which two associate judges, William M. Gwin, and James C. Ward, were chosen to assist the alcalde and share in the trial of the prisoners. Horace Hawes, Hall McAllister, and others were

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appointed to act for the people, and P. Barry and Myron Norton for the accused. Twenty-four citizens met the day following as a grand jury, and the prisoners were regularly indicted and charged with conspiracy, riot, robbery, and deadly assault. Samuel Roberts and eighteen others were thus called upon to defend themselves.

The trial began on Wednesday, was conducted in the ordinary legal forms, and lasted until the following Monday. Witnesses were examined on both sides; and the evidence of deeds done in the light of open day, to the men who now had the management of affairs, did not seem difficult to obtain. Notwithstanding which Roberts proved his *alibi* as a matter of course; Peter Earl, a Parker House watchman, swore that he put Sam to bed Sunday night, and William Jackson knew him to have been in bed at the time. But it would not do; Sam was found guilty of every charge, and eight others of one or more counts of the indictment.

After the conviction of the captured Regulators the question arose how they should be punished. Some were for having them hanged, others for having them whipped upon the public plaza and banished, and others simply for having them banished and given to understand that if they ever returned they would be executed. Roberts was first sentenced to ten years in some penitentiary, wherever the territorial governor of California should direct, and the others were ordered punished by fines and imprisonment of various amounts and terms. The infliction of the several penalties being found impracticable, and the people having gone about their business, some of the prisoners were shipped away and the others discharged. The gang however was broken up, and crime for the moment checked. Many of the Regulators took their departure for the mines, some of whom there met the fate which they so richly deserved. The miners had a shorter path from mur-

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der to the gallows than the San Francisco merchants had yet found.

This outrage of the Regulators was not an ordinary riot perpetrated in a moment of excitement, but a coolly planned conspiracy against a peaceable and peace-loving community. Under the existing laws of the United States, foreigners had the same rights in California as American citizens, and wantonly to injure them was in the highest degree criminal. Not that any special sympathy is due the class against whom their wrath was kindled. The Chileans and Peruvians who infested the towns and rifled the Foothills of their treasures were low enough in the scale of humanity; by instinct and association they were lazy, ignorant, and deceitful, and they seldom scrupled at any crime they might with certainty cover. With the lewd women brought hither by them, and who were little better than chattels, they lived on infamous earnings; their tents were dens of iniquity; and if the Hounds had extirpated them, and had then themselves been hanged for it, society would have been the gainer.

But these foreigners were human beings, and as such entitled to humane treatment at the hands of professedly humane men. The lower their estate, the less tamely fair-minded and honorable citizens would stand by and see them wantonly maltreated. That they were the scum of other societies and a curse to ours; that their touch was pollution and their presence moral disease, and that their absence would be a blessing, were perhaps among the reasons why the Society of Regulators enjoyed so lengthy an existence. But the persecution of a class was a very different matter from the punishment of criminals; the former was based on rank injustice, which would certainly recoil alike on innocent and guilty, and it must end. Right nobly did the people of San Francisco thus early vindicate their integrity and fair fame, rallying to the help of down-trodden justice.

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In this, the foreshadowing of that determined sense of truth and equity, that pointed swiftness of action so characteristic of California committees of vigilance, the primary power of society seated itself on the bench beside limp and inept law, and grasping in one hand the criminal and in the other the constable, it swore perpetual divorce from public villainy.

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CHAPTER VII.

THE ADVENT OF LAW.

Thou say'st an undisputed thing
In such a solemn way.
Oliver Wendell Holmes.

ALTHOUGH the American flag was hoisted by Captain Montgomery in the plaza of Yerba Buena the 9th of July, 1846, two days after it had been raised at Monterey by Commodore Sloat, it was not until after the cession of California by Mexico to the United States, about the time of the gold discovery, that much was said or thought about government. The thriving little hamlet that bordered the Cove, in January, 1847, dropped its modest name of Yerba Buena for the original and more pretentious one of San Francisco, made famous by the Mission, Presidio, and Bay. This town and the mission settlements southward boasted their alcalde or justice of the peace, and some of them an ayuntamiento or town council, while the country at large was held by a military governor, whose rule, however, amounted to little, even along the seaboard, and was felt scarcely at all by the scattered and erratic gold-hunters.

Says the first number of the *California Star*, published at Yerba Buena January 9, 1847:

"We hear the inquiry almost every hour during the day, 'What laws are we to be governed by?' We have invariably told those who put the question to us, 'If anybody asks you, tell them you don't know,' because we were unwilling to express an opinion in relation to the laws in force in this territory, knowing as we did that probably during the day the same persons would be told at the alcalde's office or elsewhere that 'no particular law is in force in

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Yerba Buena, though there may be in other places in the territory, and that all suits are now decided according to the alcalde's notions of justice, without regard to law or the established rules governing courts of equity.' The written laws of the country can easily be obtained and published, and for the convenience of the people it ought to be done at once. The people are now in the situation of the subjects of the tyrant who had his laws written, but placed them so high that they could not be read by the people, consequently many ignorantly violated them, and lost their lives and property. Commodore Stockton having been clothed with power to organize a territorial government in California, his proclamation settles the law in this country for the present, and ought to be regarded as the paramount law by all our courts."

This rambling statement signifies little beyond the rambling conceptions which even an editor then entertained of the laws under which he lived. When he speaks of the existence of written laws, he must refer first to the laws of Spain and Mexico, and secondly to the laws of England and the United States, for he must surely have known that neither the alcalde of Yerba Buena, nor the whilom government at Monterey, nor Commodore Stockton, had any local laws fit for the regulation of present affairs in California. In a word, like the world in the beginning, law was without form and void.

Until the war should terminate, it was to be expected that the commandant of the military district would act as governor; and though his authority was vague and anomalous, it was cheerfully recognized by all except those whom it was intended to restrict or punish.

But military rule was utterly of no avail in preventing or punishing crime throughout the country. It could not even maintain its own integrity, or overtake deserters from its ranks. It could offer rewards for human heads; but lawlessness was not thus to be restrained. As well might the military governor of California expect by such means to win souls from purgatory as that his feeble proclamations would stay the wild orgy of the Inferno. The military and naval commandants recognized in the people a right, nay, enjoined it as a duty, to choose magistrates and pro-

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vide themselves a government; but this was frequently coupled with a recommendation for delay until it could be ascertained whether congress had concluded or was about to conclude the long-looked for organization.

It will be remembered that when gold was first discovered Colonel Mason ruled at Monterey. In anticipation of the failure of congress to provide a government, a call was made for the people to come foward and discuss matters relative to their anomalous situation. By a treaty of peace the country had been ceded to the United States, and the president had recommended to congress the extension of the laws of the United States over the newly acquired domain, but that recommendation had not yet been acted on, and at the time of the gold discovery the people of California were without the court machinery necessary for the protection of their lives and property. Crime was on the increase; hordes were hurrying hither confusedly, which a well organized government with a perfect police system would find difficulty enough in restraining. What then would the ruffians not do if left to themselves, and what was to become of citizens and the country generally? The people of California could not account for this ill-timed neglect on the part of congress to provide them a government, until they found the black man at the bottom of it.

Meetings were held at San José the 11th of December, 1848, at San Francisco ten days later, and at Sacramento the 6th of January, 1849, to take into consideration the propriety of organizing a provisional government for the so-called territory of California. A day was fixed for the election of delegates to a convention for the adoption of a territorial or state constitution, which was to be submitted for ratification to the people and sent to congress for approval. Disagreements arising, however, proceedings were discontinued.

By the *California,* the first steamship to enter San

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Francisco Bay, arrived General Persifer F. Smith the 28th of February, 1849, who immediately assumed command. He was succeeded the 13th of April following by General Riley. It was now time, the people thought, that civil law should be established in this territory. The time of war, during which alone the president possessed the constitutional right to govern a territory by the simple mandate of a military officer, was over, and a forcible, practical government was nowhere on earth more needed. While congress was disputing over the vexed question of slavery in the new territory, the people grew first impatient, then indignant.

So eager for office and its spoils were the polls manipulators that in January, 1849, there were in San Francisco no less than three town councils at one time. In the absence of state legislation or federal regard, it was sometimes difficult for the municipalities to tell who were the rulers if any such existed. The old council of 1848 held over on the ground that its term had not expired. Of those opposed to it, one clique affirmed that its time expired the 27th of December, 1848, and another the 15th of January, 1849, and they elected men who took their seats accordingly. A month later the citizens met and petitioned both of the newly elected councils to resign, which they did. A district legislative assembly and three justices of the peace were then elected. On the 4th of June General Riley issued a proclamation declaring the election of the district legislature illegal, and reinstating the ayuntamiento of 1848.

General Riley did what he could to soothe and smooth. He said that congress did not mean to neglect California, nor did the president then regard the territory as subject to military rule. The old Mexican law then recognized in California, he explained, in the absence of a properly appointed governor by the supreme government, vested authority in the military commander of the department, a secretary,

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a territorial legislature, a superior court consisting of four judges, a prefect, sub-prefect, and judge of first instance for each district, and alcaldes and ayuntamientos for the towns. Many of these offices were now vacant, and he recommended that they should be filled by an election to be held the 1st day of August, 1849. He recommended, furthermore, the choosing of thirty-seven delegates to a constitutional convention from the ten districts into which the territory was divided for election purposes. Amidst a general apathy on the part of the voters the election was held as appointed, and the convention met at Monterey the 1st of September following.

In the absence of a state legislative body the alcalde and ayuntamiento of San Francisco claimed supreme authority in that district, and it was expected that all their legitimate acts would be sanctioned by the acting governor and confirmed by future legislation. The treasury being empty, the new municipal officers applied themselves to fill it.

The first money received was appropriated for the purchase of a dismantled brig, called the *Euphemia*, then lying in the Cove about where now is Front street. The object of this purchase was to convert the vessel into a prison, so that the town might have a place in which to confine its criminals. This was early in August; and the vessel was turned into a jail, which was then the only prison the town could boast. California desired admission at once into the federal union.

The 13th of November, a state constitution was adopted, and a governor, judges of the supreme court, and other state officers elected, and state and federal legislators chosen. Party politics in this state was first manifest at this election. The business of the alcalde of San Francisco increasing, a tribunal called the Court of First Instance was established early in December, with William B. Almond as judge. This court was held in an old school-house on the

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plaza, and decided cases involving not less than one hundred dollars after a fashion of its own.

The first California legislature, surnamed the Legislature of a Thousand Drinks, met at San José one month after election and continued in session four months. General Riley immediately placed in the hands of the newly elected governor the territorial archives, and surrendered to him the administration of civil affairs. Though not yet a state, California was very sure, as she thought, soon to become one, and adopted measures accordingly. The legislature proceeded at once to business as if congress had already acted on her admission. A judiciary was established and all the offices required by the constitution were created. Foreigners who had not become naturalized citizens were required to pay a license before working the mines, a measure productive of more trouble than profit. The penalty of murder alone was death; and for sending or accepting a challenge to fight a duel there should be fine and imprisonment. The state was divided into counties; the incorporation of towns and cities was authorized, and to San Francisco was given a charter.

The first election of officers for the county of San Francisco took place on the 1st of April, 1850, when a sheriff, judge, recorder, surveyor, treasurer, and other officials were chosen. The manner of this election was characteristic of the times, and shows to what length candidates for office then went to secure their election. For the office of sheriff there were three candidates—J. Townes, whig; J. J. Bryant, democrat; and John C. Hays, independent. All were on an equality in having the title of 'colonel' prefixed to their names. Bryant kept a hotel and had money; Hays was a dashing Texas ranger and had friends; Townes had nothing and was early out of the contest. Immediately he was nominated Bryant decorated his tavern with flags, placed a band of music upon the balcony, served free lunches in the

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saloon, and distributed drinks *ad infinitum*. This was continued daily with prospects of the most flattering success up to the day of election. There were enthusiastic meetings with eloquent speakers and fine parades, torch-light processions, illuminations, horses, carriages, transparencies, banners, and all the paraphernalia of the hustings. The people were as full of enthusiasm as the candidates; it being to them a matter of vital importance under which of these two gentlemen the city should be bled.

As the time drew nigh, the Hays party became despondent. The combined power of those mighty elements, money and rum, were beyond the puny efforts of man to combat. At the polls Bryant and his partisans were more than ever elated. The day was theirs beyond question. All was lost with Colonel Jack. But hold! What is this? What new deviltry has the Texan concocted? For suddenly amidst the excited throng that gathered in and around the plaza appeared a mounted horseman, in the character of a Texan ranger. The clean-limbed fiery steed was brilliant black and richly caparisoned; the rider sat erect, with uncovered head, and performed a succession of difficult feats with consummate grace and skill. The rabble crowded round in senseless admiration. Drums beat, trumpets sounded, and loud acclamations arose from the delighted multitude. The horse becoming excited, at length cleared himself from the crowd, and dashed down the street at full speed. This was enough. No better proof of the fitness of the candidate for high position and important trust was possible. What wonder that officers so elected, and by such electors, should look lightly on puritan principles and scrupulous justice as compared with well-filled pockets, champagne suppers, and happy harlotings! At the election ordered by Governor Riley the 1st of August, Horace Hawes had been chosen prefect. It was an office of his own creating, and the duties of the incumbent were subsequently

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of his own defining. The duties of a prefect he declared were "to take care of public order and tranquillity; to publish and circulate, without delay, observe, enforce, and cause to be observed and enforced, the laws, throughout their respective districts; and for the execution of these duties they are clothed with certain powers, which are clearly specified and defined. They are particularly enjoined to attend to the subject of public instruction, and see that common schools be not wanting in any of the towns of their respective districts. They are also required to propose measures for the encouragement of agriculture, and all branches of industry, instruction, and public beneficence, and for the execution of new works of public utility and the repair of old ones. They constitute the ordinary channel of communication between the governor and the authorities of the district, and are to communicate all representations coming from the latter, accompanied with the necessary information."

There is but one remove, it is said, between a philosopher and a fool; and tall, gaunt Horace Hawes could play the one or the other, as occasion required. He was the most foolish philosopher and the most philosophic fool San Francisco has ever supported. His intellect was clear, his logic practical, his arguments conclusive, as the following incident testifies.

When Benjamin Burgoyne was town treasurer, Hawes presented for payment a bill which he had held for some time waiting the appearance of funds in the usually empty municipal money-box, and said: "Burgoyne, I want you to pay that bill." The money was counted out and the treasurer remarked: "Mr Hawes, will you please sign this voucher?" Hawes complied, and started off; but turning back, as if struck by a sudden thought, he exclaimed: "Burgoyne, let me see that paper." The treasurer handed him the bill and the voucher which he had signed, when Hawes thrust them into his pocket with

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the money which he had received. Said Burgoyne, "That bill is mine." Straightening himself to his full height, and twisting his features into a terrible scowl, Hawes exclaimed: "I am prefect, sir, and *ex officio* custodian of all papers!"

I shall have occasion to mention the name of Mr Hawes again in this work; but I will say here, that notwithstanding his peculiarities, he was one of the best and purest legislators the country ever had.

California's admission into the Union, the 9th of September, 1850, was the occasion of great rejoicing in San Francisco and throughout the state. Indeed so elated were the members of the two boards of aldermen that they voted themselves each a beautiful gold medal as a present from the city of San Francisco.

Thus nominally the law spread its ægis over the communities of California. But there was no great benefit in it. The chief towns responded freely to gubernatorial calls, but little attention was paid by the lesser camps to the adoption of a constitution, the organization of law-courts, or the meeting of legislative assemblies. Little by little the garment of conventionality was thrown over these new communities, but it was ill-fitting, ill-adapted to those social abnormities which it was never made for, and hence was for the most part thrown aside as useless. Although the people were patriotic enough, none but the more worthless would deny their gold-gathering proclivities for the gratification of political honor. It was easy to find men to fill the higher offices of government, such as governor, judge, or receiver of public funds; there were plenty of men too lazy to work, and without sufficient wit to live upon, who for salary or perquisites would accept office, but intelligent honest men to fill the place of inferior functionaries at paltry salaries were not forthcoming. The pay of a member of congress was then but eight dollars a day, and a

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California gold-digger would abandon in disdain a claim that did not yield him twice as much.

Long before good government and law-courts could be established there the Foothills were flooded by a gold-thirsty humanity. In the absence of good laws well administered the people of the mining districts were obliged to make laws for themselves. This they did in the simplest manner and with a view to the immediate attainment of justice. Thefts and murders were quickly followed by whipping or hanging. These crude self-constituted tribunals were soon the terror of evil-doers, who thereupon became aware that it was better to work and be honest than to steal and be hanged.

The community being thus purged of its criminals in the absence of law, law next becomes criminal and scourges the people through the medium of its ministers. Every member of society was amenable to the law except officers of the law and their friends. Plutarch tells us that "when Anacharsis heard what Solon was doing, he laughed at the folly of thinking that he could restrain the unjust proceedings and avarice of its citizens by written laws, which he said resembled in every way spiders' webs, and would, like them, catch and hold only the poor and weak, while the rich and powerful would easily break through them." After the trial and conviction of Socrates his judges turned to him, according to the custom at Athens, and told him he might bid for his life; so in these early San Francisco courts at almost any stage of proceedings the defendant might buy an acquittal with money. And here as in Rome, false accusations were sometimes made against good men, such as Pliny complained of in Regulus, who of all two-footed creatures was called the wickedest.

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CHAPTER VIII.

CHARACTERISTICS OF CRIME IN CALIFORNIA.

> Ay, do despise me. I'm the prouder for it;
> I like to be despised.
>
> *Bickerstaff.*

Obviously the peculiarities of crime in California arose from the peculiarities of conditions. Bees make their cells cylindrical, but mechanical pressure gives them a hexagonal form. So it is with crime and criminals; the villain lays his plans smooth and round, but circumstances press them into other shapes.

Physicists tell us not only that molecules exist, but that every molecule has its individuality; and this whether atoms are born of and developed from pre-existing forms, whether matter is or is not self-existent and eternal, or whether matter may or may not be reduced to force alone. As different phases of matter in the body act chemically when brought together so as to produce different kinds of substance, so phases of mind, or constituent qualities, acting under the chemistry of human nature, yield their several moods and affections. There are two liquids which united become solid; there are two cold substances which united produce heat; there are two evils which make a good. There is nothing that crushes manhood and keeps mind debased like ancient forms and superstitions. It is among the conservative elements of state, church, and society that we find fashion dominating sound sense and good principles, that we find form more esteemed than godliness or sweet charity. And it is not necessary, in order to be sustained in

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this antique mummery, to make of the creator a *deus ex machina,* who may by human expostulations sufficiently loud or logical be induced to interfere in the workings of the laws which he has made; so in order to be rid of the tyranny it is not necessary to deny the possibility of unexpected fortunate occurrences. There was other escape from this mental incubus in the year of grace 1849, which was to encamp among the Sierra Foothills.

In the melodrama now being played the scenes were dramatic beyond description. The actors and their parts were as varied as human nature and anomalous circumstance could produce. Comedy was tragic, and tragedy comic; on the same board in simultaneous declamation were hero, clown, and heavy villain, who with the plodding people as a prey presented a performance fascinating in the extreme.

Not that California was particularly bad; not that there was less good than evil abroad; not that San Francisco was worse than any other seaport city, or worse then than now. The times were fresher then, and the lately unfettered nature of the people was more pronounced; but for looseness of morals, political and social, for unprincipled cunning on all sides, unblushing rascality in high places, a lavish expenditure of money by the wealthy in order to demoralize law and defeat the ends of justice, commend me to the present time. The tyrannies of feudalism were tame as compared with the infamies of the political and industrial magnates of to-day; for, as Thucydides says, "it is more disgraceful for men in high office to improve their private fortune by specious fraud than by open violence. Might makes right in the one case; while in the other, man throws over his proceedings the cloak of despicable cunning."

In the earlier social fermentations, the wickedness innate in every community was more visibly apparent upon the surface. The men composing the community were for the most part, as I have before observed,

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from the better walks of life, men of intelligence and fair training. Their instincts and their aspirations were as a rule noble. The peculiarity of their position lay chiefly in the fact that they were without law or government. They were not wild beasts or savages; therefore they needed rule. In the absence of indigenous institutions, in the heterogeneous character of this social compound, in the diversity of thought and customs, and in the varieties of opinion here mingled, if ever strong rule was needed it was over this conglomeration of civilized men living almost in a state of savagism.

In the absence of a ruler every man was his own despot; each did what was good in his own eyes. There were not even those social restraints so essential to good behavior, and which are indeed stronger than the strongest law. Hence it was that misbehavior was unblushingly open. It makes a vast difference to refined civilization, even to æsthetic religion, whether breaches of conventionalisms be hidden or open, whether the senator has seven mistresses in Washington, or the saint as many wives in Salt Lake City.

The superabundant wickedness of to-day we hide away, and affect not to see it. We pass laws against gambling, against prostitution, against all the more repulsive forms of vice, and then with pious prudery make the bare mention of such obnoxious evils profane to ears polite. Meanwhile, nursing our secret sins, lying in wait for opportunity of advantage over our neighbor, hardening our heart to the misfortunes of others, do we not, under cover of decency and respectability, indulge in all the lusts and passions which we so sanctimoniously condemn in open offenders? In society everywhere we see certain of the moderately wicked execrated, while others infinitely more wicked are lightly blamed. The forms that hide the hideousness of vice cover brutality, and put on the appearance of virtue. There is a drapery beneath which shame

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will not creep. Neither religion, morality, nor law is the most powerful lever of our present social mechanics; make sin unfashionable if you would eradicate it. Break all the moral laws you please, but beware how you tread upon the toes of society. Do you wish to steal? Do it legally and successfully, as a railway or land monopolist, and you will be adulated in your ill-gotten wealth. There are more refined ways of killing than with knife or pistol; affection, character, ambition may be slain, leaving the skeleton of departed hopes to stalk the earth as in the pale moonlit streets of a ghostly city; and though such deeds be dastardly, society does not heed them so long as they are not ungenteel, or bunglingly done. Some may be governed more or less by an abstract sense of right, based on moral or religious ideals, but these form a small part of any community. Many more think their actions are regulated by some such sentiment when it is really not the fact.

Every age and nation has its individuality, has some leading form of virtue or rudimentary excellence, possessing which, in the eyes of society, the individual is virtuous and excellent, and lacking which he is anathematized. The standard of excellence may be at one time courage; at another, religion, birth, caste, learning, patriotism, and the like: each in its turn takes its place as the moral ideal. And this ideal is constantly undergoing change. For example, the virtues essential in Spain, four centuries ago, are not the essential virtues of christendom to-day. Then obedience was the superior charm of woman; now it is chastity. Then blind loyalty best became the good citizen; now there are men of good conduct and character who question the immutability of any one set of civil or ecclesiastical forms.

Similar forms in character may be generated from different causes. Thus one nation is conscientious and honest from habits inculcated by a life of labor

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and deprivation; another from religious or superstitious motives. A long life of painful self-sacrifice or devotion to a cause may spring from a desire to please God, or from a desire to please one's self. But whatsoever its genesis, it is this moral ideal that gives concretion to society and force to form.

The law takes little cognizance of the relative goodness and badness of human nature. In its eyes a man is wholly good or wholly bad. It draws a line, and all who happen to be on one side are doomed to jails and penitentiaries, while those on the other side may go free. The greater part of the human family hover near this line. The good are not very good nor the bad very bad. The law shows little discernment in its separations. There are many on either side who rightly belong on the other. Often a little more villainy would save one from the gallows, and a little more benevolence would send many an uncondemned criminal thither.

Back from the line some distance we find the extremes. Take one each of these, place them side by side, the greatest saint and the greatest sinner; then compare and analyze. Many qualities we find common in both, such as patience, application, knowledge, skill, courage, self-denial, affection, and a hundred more. The difference in their natures may be very slight, so slight, indeed, that a pennyweight more or less of this prejudice or passion, or of that bent of intellect or strength of physique, was all that stood originally between the paths that later led to a prison and to a pulpit. As in nature, so in man, the product depends entirely on the mixture of elemental principles and the incidents generated therefrom by environment.

A life of crime *per se* is seldom chosen by the worst man. Crime is generally the result of ignorance or passion. The consequence is either not known or not considered. Aggregations of men may do that with impunity for which individuals so offending would

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be severely punished. What is war but wholesale murder? How differs corporation from individual swindling? In early California personal surroundings were so different from any hitherto experienced that one found one's self in the midst of a thousand temptations. And yet California made very few men bad; most bad men were such before coming hither. Every one was here with an avowed object, the accumulation of wealth; hence the one who scraped together the most gold was the best man. This passion being of the baser sort, in the absence of those restraining influences usually attending individuals so far advanced in culture as these, their baser part appeared upon the surface, mingled with their better part in a degree unparalleled in the growth of communities. They would have money; morality was a different and comparatively insignificant matter. The power of wealth was all the respectability necessary. They would indulge their passions as they pleased, some in one way and some in another; and as long as a man paid his debts he was not open to serious censure. Thus in the association of these heroes of the golden calf, with the attendant elements of pugilistic chivalry and brute force, was seen what we might call a modern age of antique intermixtures, a combination of the golden age, the heroic age, and the stone age, with latter-day liberalized modifications.

Crime here had an individuality not less pronounced than the peculiarities of the people. In character and quality it partook of the nature of the times. Its origin was as often vanity and hot blood as it was cool, calculating cupidity. There was a chivalrous bearing and dash about it which to many was enticing. The danger of it was charming; the field for atrocious ambition was wide; murderers delighted in the magnitude of their achievements, notching the number of their victims on the hilt of knife or pistol. Theft was base, unworthy a true knave-errant. When

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men did steal, it was in a sort of magnificent style, such as highway robbery, unearthing bags of buried gold-dust, or for revenge. There was glory even in failure; the captured criminal was for the time a hero, the observed of all. Men eyed him; women talked of him; editors wrote of him. Business was dropped, and whiskey drunk, and court-rooms were filled, and briefs written, all for him. Jails were opened for him and free accommodations furnished. He was the guest of the town. For him sheriffs bustled, juries sat, lawyers ranted, judges looked grave; and even if he was hanged there was something flattering in the punishment.

There was a subdued audacity in the fighting men of California. The blustering Englishman had not his counterpart here, nor the wild Irishman, nor the half-crazed Frenchman, nor the border ruffian of Kansas or Mississippi. There was much of the gentleman about them, in many much that was chivalrous. The true Californian desperado was a mild-mannered man, gentle in demeanor, not given to much drink, and though about to cut you in pieces, he greeted you with a smile of sardonic sweetness. As a rule he patronized the barber, sported a white shirt and neatly fitting and well polished French boots; and when carrying the honors of a fresh murder he sometimes indulged in kid gloves.

Swindling, the Lilliputians punished more severely than theft, because it was easier, they said, to protect their property from thieves than from cunning and unprincipled persons who perpetrated their villainies within the pale of law. In like manner the Californians punished theft more than murder, because men carried their lives about with them, and might defend them, but property left to itself was defenceless. The easy, open, self-reliant disposition of the people; their fondness for harsh words, though so often accompanied by gentle deeds, their hot blood and hatred for whatsoever in appearance was craven, the exposed

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condition of men and money, the free use of strong drink, and the necessity felt of always going armed, were among the chief causes of bloody affrays; and when woman came, as ever in the history of the race, she was a new and fruitful source of deadly encounter.

Thus it was that crimes against the person were more general than crimes against property; and one cause of it may be traced to the grand opportunity for the evolution of avarice which was offered by gambling. In professional parlance, the dead-broke man could almost always, by borrowing, or working a little, raise a stake, and thus find gratification for that covetous greed which, without this opportunity and excitement, must lead to schemes of darkness.

Moreover, where every man was obliged to defend himself, and in a measure to right his own wrongs, greater license was allowed in the employment of deadly weapons. When rifles, revolvers, and bowie-knives were the fashion, when no one was supposed to be decently dressed without them, it were a little singular if one should never be allowed to use them. Hence it was that crimes of violence, the result of excited passion arising from strong drink, gambling, fancied wrong and insult, were more common and less severely punished than crimes displaying innate meanness. There was no necessity for stealing; food was plentiful and easily obtained, very little clothing was necessary, life in the open air was delightful, and work was honorable; on the face of earth there walked, in his opinion, no man more noble than the honest miner, even though his woollen shirt was never washed; and to strike a hearty, manly blow for whiskey or opinion's sake, even though somebody died in consequence, was quite different from the sneaking meanness of the Mexican cattle thief. On the other hand, those very causes which diminished theft increased personal violence. Freeness of life and manner, stimulating drinks, stimulating air, absence of social restrictions, all tended to the turning loose of passion, and to that

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gratification of appetite which breeds licentiousness and blows. Hence it was that in the earlier stages of arbitrary justice the thief was hanged while the murderer was left to run at large.

In 1875 the carrying of deadly weapons without special permission was forbidden in San Francisco; since which time hundreds of applications for such permission have been made and granted. It has been questioned whether under this law the safety of the citizen or of the robber is the better secured. Men of nocturnal occupations, and those living in lonely suburbs, deemed it necessary to go 'heeled,' as hoodlums say; but the permits issued became so numerous as to include many whose intentions were assault rather than defence. Coercive laws, such as restrict the innocent action of responsible men; sumptuary laws, laws against intemperance and immorality, never will regenerate society. He who desires to do murder will not hesitate to break the lesser law against carrying weapons.

As in savagism ornament precedes dress, so in border communities deadly weapons precede the implements of legal justice. Everybody, during the Inferno, the disreputable and the respectable, deemed it a necessity to carry weapons. This shows how blinding is fashion. Because hung to every man's belt were glittering implements for the losing of human life, it was taken for granted that no life was safe without such implements. Surely the application of a little thought and common sense to the subject would have shown them that except in extraordinary cases, even in a community of rough fire-eaters, he who went unarmed was less liable to be attacked, less in danger of losing his life, than he who always went armed to the teeth for purposes of defence. Weapons invite violence. They are as bad playthings for men as for children. In California they were as dragons' teeth sowed broadcast along

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the Foothills, which sprang up each to the other's destruction. Not less than ten millions of dollars of the precious metal taken from the mines of the Pacific States has gone to pay for guns, pistols, and knives with which the people might butcher each other, and without which all would have been better off.

Quarrels between the rascals themselves were promptly settled by bowie-knife or revolver. As a rule they died with their boots on, as they expressed it—that is to say, violent deaths; indeed they expected nothing less. Ancient belligerents, each having sworn to kill his enemy on sight, would stroll about the street with eyes and ears on the alert, with hand on pistol-hilt, and on coming together both would draw and fire as rapidly as possible, neither of them speaking a word. Duels were in order; of the one hundred fought in California about one third were fatal to one of the combatants. Although our law makes duelling a felony, no one has ever been properly punished for this offence; yet public opinion is against it, and a duel now is of rare occurrence. The quiet citizen the ruffian seldom molested, except in cases of robbery. At no time in the history of the country need any well-behaved man, minding his own business and avoiding drinking-saloons, have greatly feared for his life.

I have said that there were different degrees and methods of punishment. A warning to leave the camp, or town, or city, or country, was the mildest form; whipping was not unusual, but hanging was most common. In a country where all was turmoil and confusion, and where a liberated criminal would be as free as ever to commit new crimes in another camp or district, capital punishment seemed the only effectual cure. Suspected and disorderly persons were driven away.

Hanging was done in various ways—by shoving the criminal from the door of a loft while a rope suspended him by the neck to a beam above; by

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running him up to the bough of a tree, a number of men having hold of the rope and sharing in the execution; by mounting him on a box or cask under a tree, and when all was ready knocking the support from under; by mounting the condemned on a horse or mule, tying his neck to the limb of a tree, and driving the animal out from under him. Sometimes one of the miners would be appointed executioner, at other times all would join in the unwelcome work.

A fourth punishment—hanging, exile, and whipping being the first three—was one no less effectual than novel. It was the custom of committees of vigilance when they had in their possession a bad character against whom there existed strong suspicion but not sufficient evidence for conviction, before setting at liberty such an one to cause his likeness to be taken, that all villain-hunters might thenceforth know him. The Chinook of the Columbia, in the enjoyment of his aboriginal phantasy, would sooner die than have his other or intrinsic self, or soul, transfixed in light and shade, or imprisoned on the canvas to be carried hence, stolen, and forever lost to him. So these worse than savages, who preyed upon their kind, would ofttimes have preferred corporal punishment, or exile, to the infliction of the daguerreotype.

There is more virtue in the lash for criminals than many suspect. Bound to the whipping-post, their backs bared to the sun, the performance which follows is not sentiment alone. Prisons the expert malefactor does not much fear. Even though doomed to disappointment, hope of escape never deserts him. But the whipping-post is an abomination, attended as it is with pain as well as disgrace.

Yet however overwhelmed a mining-camp may have been by cunning knaves and unprincipled miscreants, by desperadoes newly made, and the spawn and outcast of old societies; however crude the justice of these unfledged civilizations, and however passionate and insane the populace in the execution of a popular

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verdict, mixed with the general mass there was always enough of leaven in the shape of inherent nobleness of character, love of right, and practical good sense in the maintenance of order and respectability, to save the place from final destruction. This element of respectability and a care for appearances was greatly strengthened by the presence of woman, when she came, as well as of churches, schools, lyceums, and piano-fortes; and while the quick-thinking and quick-acting people were sometimes overcome of impatience from laggard justice, officers of the law became more and more respected, and were less interfered with in the discharge of their duties.

Early in 1850 some few began to think of remaining permanently in the country, and accordingly sent for their families. But even later the great mass of the people intended only to secure a little fortune and then hasten from these wild, and to many detestable, shores. Some thought of a longer stay in connection with political preferment or professional advancement, but even these looked forward in the hope of a return eastward after a five or ten years' exile. Hence it was that men, even of cultivated abilities and mature character, who under other circumstances would have taken a lively interest in assisting to lay the foundation of the political and social institutions of the new commonwealth, were careless of the welfare of the country, and took little interest in society. Clustering round their heart-strings were the old home affections, and many were the high aspirations finally smothered in the hopes of return. They were good men, and respected the dignity of government and social order, but they did not come hither for personal distinction, or for any other purpose but fortune.

Where money was plenty and manners were free, for the popularity of the thing, those even who intended soon to leave the country forever might countenance propositions tending toward public good, and might aid

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in the establishing of schools and churches, but the heart was not in it.

Overlooking since 1850 the upper side of Portsmouth Square, early San Francisco's historic centre, is the Monumental Engine House. Many and varied have been the doings witnessed from its windows, for in this plaza there used to congregate men of every color, of every phase of intellect, of every quality of aspiration. Thence have been seen crimes of every sort, and some displays of slow and of swift retributive justice. Assassinations the Monumental windows have seen, and riotings, robberies, and hangings; the tented foreigners in their low licentiousness, and the gaudy saloon, and blazing, music-sounding betting-shops; the grandest of early theatres, the Jenny Lind; the custom-house; the post-office, with its long line of anxious letter-seekers on the arrival of every steamer; these, beside mobs, elections, political displays, citizens' meetings, peddlers' cries, street preaching, and a thousand other enlivening scenes.

There were not many bells in California then, but the Monumentals had a bell on their engine-house when churches were obliged to do without. Fire was king, and could command what it would. There were other flames beside the flame of fire that often raged within hearing of this bell—flames of passion, and the blazing of those lusts which so often burn to cinders both body and soul. All the time these fires of hell were flaming in the bodies of men, who were constrained to fight them hourly or die. Men's passions were always ablaze; but when property was on fire the Monumentals struck their bell, and the alarmed citizens roused themselves from their beds to the rescue. It may not be out of place to mention here that the bell of the Monumentals was the official organ of the terrible tribunal of 1856, when first convened, and rang to their death those most able and gentlemanly scoundrels of the ballot-box stuffing epoch; yet it was not the first to sound the note of

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warning to vice-ridden San Francisco. That honor belongs to the California Company's bell, which was sounded with a billet of wood by Mr Oakes, standing on the ground—which was hammered by that gentleman when he wished to rouse the people to the trial of Jenkins, in the summer of 1851. Later, the first tribunal employed the bells of both these companies.

Likewise was seen from the same windows of the Monumentals the chain-gang at work on the plaza and public streets—a novel spectacle in America—twenty or thirty hardened offenders, pallid through long confinement, clanking their chains to the movement of pick and barrow, and warning the novice in crime of the fruits of evil doing. In older societies such displays are rightly regarded as barbarous and debasing; but here some more public and severe punishment seemed necessary than the latest refined and philanthropic methods. It was not the money saved to the city, if indeed there was any such saving, but the moral effect that alone justified the measure.

The police court, or recorder's court, as it was called before the passage of the consolidation act, was the medium by which the moral ulcers of the city were opened. The prisoners there every morning arraigned were mostly foreigners, and interpreters of every civilized language under heaven were found necessary. And the religion of these scoundrels, and that of their friends, must be duly regarded, for the vilest and most ignorant are often the most religious. Herein was still greater diversity. Each witness was sworn by whatever peculiar sentiment of fear environment had placed his imagination under—the Chinaman, for example, by holding in his fingers a piece of burning yellow paper, symbolical of the burning of his soul should he fail to tell the truth. I regret that faithfulness enforces me to add that, notwithstanding this solemn invocation of spiritual fire which threatened to strew the path to paradise

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with the ashes of his soul, John did sometimes most wickedly lie.

The first number of the San Francisco *Herald*, issued June 1, 1850, calls the attention of its readers to the open and persevering attempts at incendiarism, affirming that there was then an organized gang of ruffians devoting their time to the disturbance of the public peace, and to maturing plans of burning and robbing. Two or three attempts to fire the town were sometimes made in a single night. The gang was composed chiefly of Sydney convicts, and correspondence was carried on between the principal cities of the state. Great difficulty was experienced by the authorities in frustrating their schemes, reckless and desperate as they were, and practised in all the arts of villainy. A law was passed by the legislature to deter the coming of convicts, but up to this time it had not been enforced.

Courts of justice during those days were frequently assailed by the press, but they had their defenders. Writing December 13, 1850, the editor of the San Francisco *Evening Picayune* says: "We have not been indifferent, as we have shown on frequent occasions, to the unwarrantable and disgraceful attacks upon our courts, and upon those who preside over them, by one of our morning journals. We deprecated, at the earliest moment, the appearance of a seditious and disorganizing spirit, but were told that all the talk in which it indulged about the overthrow of the only defences of our rights and liberties was all nonsense, and we had concluded so to regard it. We have no fears for the stability of the tribunals which the people have created, and we have had no suspicions of any want of the purest integrity in the judges that sit in them. But we have looked with inconceivable displacency upon the license that has been assumed, both to control and traduce them. We are glad to see that our contemporaries have, some of them, given a strong and manly utterance to a just, but we fear useless, rebuke."

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This tended only to stir up all the more order-loving citizens, who continued to curse the courts because they would not punish crime. At last the people of California were awake, wide awake.

If they were to remain here but a week they did not wish to be robbed or burned in the mean time. Then grumbling became chronic. Men complained to each other, and came together in mass meetings, and swore these things should not be. If crime had its characteristics, so had those determined to eradicate it. Knavery of all kinds was looked after—the owners of steamers, that they should not carry more passengers than the law allowed, no less than those who would cut throats or burn buildings. Speculators who caused flour to rise to twice or thrice its value were openly and manfully denounced. While in all this there was much talk, there was some action, as we shall see before the end of these volumes is reached.

In regard to the spasmodic course of crime, I do not know that it is more particularly so in California than elsewhere. I think not. But here at all events its character has been clearly apparent. For a time all would go on smoothly and quietly in the line of villainy; then suddenly there would appear a shooting mania or a house-breaking mania, or a mania for self-murder, and for a week or a month the columns of the daily journals would present a stirring calendar. Murder incites murder; blood begets blood. Like every wave of fashion, crime undulates in common directions. The force of example is no less strong in suicide than in silks; ninety-nine hundredths of all we do is done because we see others do so. Reading the reports of rascality, and the warnings against iniquity in moral reform books and journals, engenders a morbid immorality. When all books of a demoralizing tendency are burned, our Sunday-school libraries will be cleared of half their contents.

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CHAPTER IX.

LAW AND DISORDER.

Gesetz ist mächtig, mächtiger die Noth.
Goethe.

With the rise of legislative assemblies, the adoption of a constitution, and the election of state and county officers, the administration of affairs in the more settled parts was taken from the hands of the merchants, mechanics, and miners, and placed under the direction of the several officers of the law and legal tribunals. Then the wicked took heart. Hitherto there had been an absence of those legal and political juggleries which primarily are devoted to defeating the ends of justice. Now might crime weave round itself the threads of law, as the larva spins the protecting cocoon. Most strange and paradoxical was it that the elevation of law should have subverted legal authority, and that the cultivation of morals should have so demoralized the community.

I say the establishing of courts tended to encourage crime rather than to prevent it. By manipulating primary elections, and managing the polls, unprincipled demagogues were placed upon the bench, and ruffians made court officers. The most notorious offenders, by giving straw bail, by producing two or three members of their fraternity to swear an *alibi*, or by unblushing bribery, were sure of acquittal or escape. In one year, for two hundred murders committed, there was but a single legal execution. Police officers connived with professional house-breakers and shared the spoil.

While it was easy to hang a thief, it was difficult

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to convict of murder before the juries of the interior. There were so many excuses which those could allow who had themselves indulged in a little shooting, that, even when in the early part of 1854 juries began to convict, they generally softened before leaving their seats and sent in a recommendation to mercy.

Juries were summoned from the hangers-on about court-rooms, men fit for nothing else, scarcely able to live by their wits, and yet too lazy to work. Old familiar faces were they, blossoming under the genial influence of strong drink; old pensioners they seemed to regard themselves, as they did nothing but sit in the jury box, the same person sometimes serving several times in one day. Thus the courts had always at hand an acceptable, stereotyped jury of retired Peter Funks from the purlieus of Long Wharf, petty hucksters, perhaps, or sham bidders at Cheap John auction rooms.

Murderers were our congressmen, and shameless debauchees our senators. Our legislators were representatives of the sediment of society, and not of worthy citizens. An ex-governor of the state, John McDougal, was arrested for election frauds shortly after his return from the east, in September, 1856. Cowhiding affairs, in which a woman was either an actor or the cause, and politicians parties to it, were of common occurrence. Affrays between attorneys in court, in the name and under the nose of justice, and duels in which an editor, judge, or politician was sure to figure, were frequent.

"There is scarce an officer intrusted with the execution of our state government," writes the editor of the *Evening Picayune* as early as August, 1850, "scarce a legislator chosen to frame the laws under which our interests and the interests of those who are to come after us are to be regulated, scarce a judicial officer from the bench of the supreme court down to the clerk of a village justice of the peace, scarce a functionary belonging to the municipal administration

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of our cities and incorporated towns, who has not entered upon his duties and responsibilities as the means of making money enough to carry him home. His devotion to the well-being and advancement of the community whose confidence he has sought and won is measured by the dollars and cents to be acquired by fidelity and industry in his place, rather than by any prospective regard to the influence which his official career may have upon the destinies of the community of which he has no intention to become permanently concerned."

From the criminal records of 1855 I find that in California five hundred and thirty-eight persons met their death by violence. Of these three hundred and seventy were white, one hundred and thirty-three were Indians, thirty-two Chinese, and three were negroes. The most inoffensive, it may be noticed, suffered the least. The record can scarcely be correct, however, as regards the aborigines, for hundreds of them were slain by the dominant race, the murders being never made known. During this same year forty-seven persons are said to have been executed by mobs, and nine by legal tribunals; ten were killed by sheriffs or police-officers, and six by collectors of foreign miners' licenses. Twelve perished in fights about mining claims, and eight over the gaming-table. Prior to 1855 homicide was at least as frequent. The district attorney of San Francisco asserts that during the years 1850–3 inclusive there were twelve hundred murders and only one legal criminal conviction. Though I do not vouch for the correctness of this statement, it was, to say the least, a terrible condition of things.

Helper in his *Land of Gold* makes a startling statement, which I give for what it is worth. He affirms the loss of life by violence in California during the years 1849 to 1854 inclusive to have been as follows: murders, 4200; suicides, 1200; insanity, 1700; wrecked, or the victims of disease on the voyage

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hither by sea, 2200; perished, or killed by Indians on the overland route, 1600; perished in the mines, and in prospecting for gold, for lack of care, or scarcity of food, and by Indians, 5300. Total, 16,400. Life was cheaper than under Anglo-Saxon law, when for killing a churl the murderer had to pay ten pounds, though for sixty pounds one might kill a king and go free. Had Herod, for the slaughter of the Innocents, been brought before a San Francisco jury at that time he would have been acquitted. Judas Iscariot amongst the California Christians would have passed unscathed so long as any part of his thirty silver pieces remained with him. Scores of quidnuncs, political Paul Prys, *soi disant* patriots, hung round every drinking-saloon. As Plato said of the Athenians, "It is dreadful to think that half the people we meet have perjured themselves in one of the numerous law-courts." Thus the moral perspective of society was anything but pleasing.

Time was when the personage whom no one knew, called Man in the Moon, was employed to negotiate bribes. But no such clap-trap was necessary in the present instance. In every precinct was a politician-shop, where third and fourth rate wares from Ireland, and old rotten relics from the eastern states, newly veneered and varnished, were palmed off on the people of California as sound and genuine.

The reign of order following the demolition of the Society of Regulators was of short duration. The disease which had fastened itself on this infant society with such virulence was not eradicated, but only scattered. Further indications of popular determination were visible during the midsummer of 1850, and although the climax was not reached until six years after, the main issues were seldom lost sight of. In the mad race of money-getting, office-holders as well as others were troubled with the itching palm. Gold dust was abundant; every one appeared to be getting rich; business men were not always

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over-scrupulous in the means employed for the acquirement of wealth; San Francisco was a mighty metropolis in embryo; why should not her officers make money with the rest? So they voted themselves large salaries, built and bought extensively, let contracts to supporters at double current rates, stole the public lands, imposed heavy taxes on the people, and swelled the public debt until the young city groaned beneath the weight. They were not only sordid in their craving for gain, but indecent in their sordidness. There were now those present who looked upon San Francisco as their future home, who had the city's true interests at heart, and these regarded with no favorable eye the doings of political leeches.

Like everything Californian, when government set in, it was with a vengeance. Following the approval by the people of the city charter, May 1, 1850, it became necessary for a city of fifteen thousand inhabitants to pay a mayor, a recorder, a comptroller, a city marshal, and a city attorney, each a salary of $10,000 per annum. There was a board of aldermen, and a board of assistant aldermen, sixteen members in all, at a salary of $6,000 each; a treasurer at $6,000, and a tax collector at $18,000. When the officials voted this yearly expenditure of $170,000, and other like exorbitant sums, out of the people's pockets into their own, under the usual caption, 'The people of the city of San Francisco do ordain,' it was first thought to be a joke, though a sorry one, and it was supposed the ordinance would be immediately rescinded. Such was not the case, however, and it soon became apparent that the citizens would not submit to it. The city was already heavily in debt, and no provision had been made for the payment of obligations long since due. Such a course was blighting to her prospects, ruinous to her credit, and calculated to drive away settlers and capital.

On the 3d of June a call was made to attend a primary meeting at the Merchants Exchange, pre-

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paratory to a mass meeting to be held for the purpose of adopting prompt and efficient measures for retrenchment and reform. The meeting was well attended by the most intelligent and influential men of the city. But this was not all. So general was the indignation felt toward the common council for its late unwarrantable conduct, that without concert several simultaneous meetings had been projected by different parties of citizens. "We are willing," said they, "to submit to just and equal taxation, to pay our municipal officers who devote their time to public affairs a reasonable salary, but the ignorance, together with the lack of energy and ability manifested by the new council in extricating the city from financial difficulties, requires immediate action on the part of the people."

At eight o'clock a large and enthusiastic meeting was held in the plaza, the cheers and groans from which every now and then fell with electrical effect on the ears of the aldermen in session near by. On the evening of the 5th a still larger meeting, the largest ever yet assembled in Portsmouth Square, openly avowed the principle that the people should not tamely suffer wrong at the hand of their rulers. There was no thought of disorder, or of inflaming the public mind, or of rousing themselves into a passion. Violence, either in word or deed, was condemned. "We do not intend to mob them," said General Wilson, who presided; "we come here to give forth the voice of this community." The great public heart was aroused, and the people had resolved, calmly but decidedly, to tell their evil-minded officials to change their course or resign.

A committee of twenty-five was appointed to wait on the council and make known the will of the people, which was, "to abandon the scheme of high salaries, and remodel the schedule of oppressive taxation; and unless willing to do so, to resign, and give place to more efficient and patriotic men." The council re-

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ceived this reproof coldly, and laid it on the table. This was heaping insult on injury. The people had placed the councilmen in power; they had a right to meet to comment upon their acts, and to demand that those in office should not misrepresent them.

On the 12th of June another mass meeting was held, and the same committee, with power to increase its number to five hundred, was authorized to present the same resolutions before the common council, in such form as the committee should think proper. Of this committee J. L. Folsom was chairman. After having added the authorized five hundred to their number, the committee resolved to march in procession to the council chambers, and there demand obedience to the people's wishes. The evening of June 14th was the time fixed for this second visit, but on that day one of the great fires swept the city, and further action was delayed. The result of these meetings, however, was to check the extravagance of the officials, and give them wholesome warning.

These facts are important as showing the mildness and forbearance of the citizens of San Francisco under aggravating wrongs. Far from being riotous or disorderly, they were lovers of law and quiet; and never, until all other means had failed, and time had worn patience to a film, and the actual salvation of the city depended on it, did they resort to arms. Notwithstanding their nerve, judgment, and decision, there never was a more orderly and peace-loving people; otherwise how should they have staked their all for order and peace? Surely they might have rioted with the rest, had they so chosen.

Not until the 10th of December, 1852, did the first capital execution under sentence of a lawful tribunal take place in the county of San Francisco. The name of the person laying claim to this distinction was José Forner, and his crime the murder of a Mexican in Pleasant Valley on the 13th of September. The

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execution took place on the slope of Russian Hill, about three quarters of a mile from the county jail.

At Sacramento matters were no better. Not satisfied with attempting to overawe the people, the self-appointed regulators of society sought to suppress public opinion. In a certain issue of the Sacramento *Times* the editor, Mr Lawrence, had called the attention of the city authorities to a drinking-saloon, called The Branch, immediately opposite his office, where daily and nightly orgies were held of a noisy and disreputable character. For this, about 9 o'clock on Sunday night, the 13th of April, 1851, as he was passing the place on his way home from the theatre, he was set upon by a gang of hangers-on, some twenty or thirty in number, knocked down, and beaten into insensibility. And they threatened with like punishment any editor who dared question their vile proceedings. This dastardly attack upon a worthy man for doing nothing but his duty roused the indignation of the people, who thereupon issued a circular, signed by about a thousand of the best men, in which they declared their alarm at the growing indications of crime in their midst. "We had hoped," said they, "that the summary punishment which has already been inflicted upon a number of the villains who have been detected in crime would admonish the balance, and free us from any further inroads upon our laws, our rights, or our lives. We, therefore, having heard that they design an attack upon the various editors of the city, and in their own language to make a clean sweep of them, do hereby pledge ourselves to sustain every paper in Sacramento in reprobating to the full extent of their power the outrages of these scoundrels in iniquity. And we furthermore assure the editors and publishers of our city, separately and collectively, that if any or the slightest injury be inflicted upon one or any of them in consequence of such a course editorial being pursued, we will inflict upon the parties

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so injuring a punishment from which they will never recover."

To return to San Francisco. The first of December, 1850, affairs stood thus: Highway robbery, hitherto confined to the outskirts of the city and perpetrated only at night, had entered the town and was practised in the daytime. Crime stalked boldly in the public thoroughfares. Attempts at incendiarism, with a view of profiting by the confusion and securing plunder, were frequent. It was ascertained beyond question that another organization existed, and that its agents were in every part of the city engaged in divers occupations that their nefarious schemes might thereby the better be covered. They had spies who usually assumed the role of peddlers, and under pretence of disposing of their wares examined premises marked for robbery. The police force was small and inefficient. In case of an arrest the law was powerless; false witnesses were suborned, and straw bail given, and not more than one in ten was ever convicted. Crimes were classified and systematically parcelled out to adepts. A large number of boys from ten to sixteen years of age were employed; these, trained by their superiors in crime, displayed marvellous dexterity. Females also belonged to the band; and there were houses of refuge, and places where their implements were concealed. Says one of the journals of the day: "We believe it to be the duty of every citizen to arm and hold himself in readiness to act in the capacity of guardian of public safety at any moment. There should be a simple machine of wood erected on the plaza, with a rope attached, and some five or six examples should be made which would strike terror into the rest."

A fire which occurred on the night of the 14th of December, evidently the work of an incendiary, lighted in the iron building of Cooke Brothers and Company on Sacramento street between Leidesdorff

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and Montgomery, for the purpose of burning the Pacific Mail Steamship Company's office near by so as to seize the treasure left there for shipment, called forth similar plain expressions from the *Herald*, whose editor, as we shall see, was ruined by opposition to the Vigilance Committee of 1856: "We do not advocate the rash and vengeful infliction of summary punishment on any person against whom the proof is not positive of his connection with those crimes; but although opposed to capital punishment in old communities, where the execution of the law is so perfectly systematized that justice seldom fails of its victim, we nevertheless believe that some startling and extraordinary correction is necessary in San Francisco to arrest the alarming increase of crimes against property and life, and to save the remainder of the city from destruction."

William Wilson was caught stealing a shirt and vest in Middleton and Hood's crowded auction room, in San Francisco, in February. This kind of thing was becoming too common. With one accord the buyers present stopped their bidding, and turning upon the wretch beat him with fists and clubs and iron hoops until well scarleted with his own blood, when they handed him over to a policeman.

The 9th of March, 1851, witnessed an indignation meeting on the plaza. The *Herald* was then the champion of the people's reform party, as it was in 1856 the ultra organ of the law and order party. William Walker, one of its editors, for some time past had been endeavoring to rouse the people from their lethargy in regard to social disorder, and in so doing had indulged in severe strictures on the masterly inactivity of the courts. This displeased Judge Levi Parsons, of the district court, who requested the grand jury to pronounce the press a nuisance, and punish its plainness of speech. The *Herald* retorted. Walker was arrested, brought into court, and fined five hundred dollars for contempt, which he refused to

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pay and so was sent to prison. Four thousand people met and said the thing should not be; four thousand people condoled with Walker in prison, and requested Parsons to resign. A writ of *habeas corpus* from the superior court liberated the imprisoned editor. Under popular censure, more fully expressed by the state legislature then convened, the power of the irate judge withered, and not long afterward he resigned.

The last day of this same month, while the examination of William Slater for the murder of Elijah M. Jarvis was in progress at the court-house on the plaza, as the officers were conveying the prisoner from the court-room to prison, a party of twenty horsemen from Mission Dolores made a dash at them, for the purpose of seizing Slater, taking him to the Mission, and hanging him. The murder had been committed under the most aggravating circumstances, and the people knew of no earthly power from which they might seek redress. Followed by an excited crowd, the officers hurried their prisoner along Kearny street, and secured him in the station-house, although they were well-nigh trampled by the horsemen. Thus foiled, the Mission men were furious. After an unfruitful effort to excite a raid upon the prison, with loud oaths they retired.

As if the combined misdeeds of the officers of the law and the legitimate dealers in human blood were not enough to exhaust the patience of the honest and industrious of San Francisco, a new order of yet more aggravating villainy was now brought forward. This was nothing less than a determination on the part of the vultures to burn the city, for the opportunity it would offer for pillage. Fire is the devil's natural element; and if now of the merchandise and buildings of the city, the products of extraordinary toil and privations, a grand bonfire could be made, the emissaries of Satan might at one sweep avenge all past attempts of retributive justice, and hold a hellish jubilee.

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The great fire of the 4th of May, 1851, occurring on the anniversary day of the great fire of May 4, 1850, was supposed to have been the work of the miscreants. It started in a paint-shop, the owners of which claimed to have exercised their usual precautions. Be this as it may, eleven days after, almost before the smoke of the great conflagration had wholly cleared away, there was another attempt made to fire the city about which there is no question. Some inflammable substance was ingeniously arranged in a store-room of the Veranda saloon, corner of Kearny and Washington streets, to which a slow-match had been applied. It was extinguished before it had spread. The next night, the 16th of May, the city hospital then filled with patients was fired by placing a burning lamp under a straw bed. The flames were blazing brightly when discovered, and the building narrowly escaped.

This was not all. On the night of the 3d of June, one month after the last great annual May fire, two attempts were made to burn the city. A pile of shavings was found ignited under the stairway of a new house on Commercial street, where a few minutes before certain suspicious persons had been seen lurking.

The same night one Benjamin Lewis, a Sydney convict, was arrested for firing a house on Long Wharf. During the preliminary trial a cry of fire was raised. Though the alarm was false, the excitement was so great that the officers were compelled to remove the prisoner to another room. When the judge announced that the prisoner would be committed for trial, and ordered the sheriff to bring him in, from the door-way cries were heard, "Hang him!" "Lynch him!" "Bring him out!" Fast filling the street was a tumultuous mob gathering. The mayor ordered the California and Washington guards to hold themselves in readiness, and mounting the upper balcony, essayed to quiet the people. Meanwhile the

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prisoner was secretly removed to a safer place; and on the assurances of the mayor and marshal that he should have a prompt trial the crowd dispersed.

Fire was kindled simultaneously in several places on California-street wharf, where were quantities of hay and lumber, on the 7th of June. The flames were discovered and quenched. Next morning the *Alta California* came out in a strong editorial urging the people to unite and adopt measures for saving the city. The day of reckoning was at hand.

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CHAPTER X.

MOBOCRACY IN THE MINES.

Ed io che di mirar mi stava inteso,
Vidi genti fangose in quel pantano,
Ignude tutte, e con sembiante offeso.
Queste si percotean, non pur con mano,
Ma con la testa, e col petto, e co piedi,
Troncandosi co 'denti a brano a brano.

Dell 'Inferno.

While San Francisco was thus being stirred by the spirit of evil, let us look at other parts of the state and see how matters were progressing there.

In the great valleys of the San Joaquin and Sacramento, during the year 1849, the halcyon days of the previous year for the most part continued; nevertheless there were short, quick spasms of justice among the miners, which as a faithful recorder of events I cannot pass unmentioned. Although dropped into the concretions of the new societies as a *lusus naturæ*, they nevertheless, to a calm observer, were significant of what would speedily follow.

From the time of the Greek voyager Ulysses to that of the English philosopher Shaftesbury, dissimulation has been regarded as an indispensable quality in governing. Without art and policy, without intrigue and overreaching, no man or set of men might rule. *Qui nescit dissimulare, nescit regnare.* The moral code of almost every age and nation recognizes deceit as a fair weapon to be used against an enemy.

In this respect the morals of the Californian miners were far purer than those of the Machiavellian school. They would shoot their enemy, or hang the enemy

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of their camp, but they would not deceive him. They found a way to rule themselves and their little societies without Jesuitical cunning. They were the sons of their father Adam whose eyes had been opened to know good and evil, and when they saw wickedness coming into camp, warned by the folly of their primogenitor, they lifted their heel and crushed it.

Foote thinks that with the greatest propriety we may laugh at him who affects to be what he is not, or who strives to be what he cannot. Far less than the subtle diplomatist who scorns the simple methods of honest men; far less than the politician who preys on the patriotism of honest men; far less than the ruler, or legislator, or law-manipulator, who would throttle honest men sooner than permit them to punish crime if such action is to disturb the slumber of his sacred form—far less than these, to whom dissimulation is bread, do the miners of California, in their administration of justice, subject themselves to the derisive smile of any one. Simple, honest, earnest, they affected nothing, and in the direction of self-government, attempted nothing which they failed to accomplish. Here was a people who might give Solon or Justinian a lesson in the method of executing justice. Some one has said that their practical cast of intellect made the Romans the great law-givers of all ages. With equal propriety we might observe that the Californian miners, by their cast of circumstances, have shown to the world more than any other people who ever lived how civilized men may live without law at all. Their code was as far as possible removed from that of society morals, which is founded in the main on the *malum prohibitum* rule, that makes a thing wrong because it is forbidden. It was most catholic, most simple. Let every man do what best pleases him, only he must not injure his neighbor; if he does, he will be put where he cannot. The forty thousand volumes or so of sage decisions issued by the bewigged of divers nations contain no more law than this.

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It is the duty of the government, if there be any government, to protect the people; if not, of a surety the people, if they be not dolts, will protect themselves. The Hundred Court of ancient England was bound to pay all loss by robbery unless it captured the felon. It may be that we expect too much of government; but if so, does not government expect too much of us? How then shall imperfect man make for himself a perfect government? Dull, obstinate, and irrational in its units, how shall aggregated humanity display moral and intellectual wisdom? But for the so-called evils which are forever whipping us into rectitude, we should straightway fall upon destruction.

To Placerville belongs the honor of the first popular tribunal of the placer-mining epoch. Distant but nine miles from Coloma, where gold was first discovered, the spot where now stands the town was early occupied by diggers. Placerville, however, was not the original name of the camp. It was first called Dry Diggings; afterward, for the reason which we shall presently see, Hangtown.

It was not a pleasing spectacle, this first display of unchained justice among the miners; but what could they do? Five men, one night about the middle of January, 1849, had entered the sleeping-room of a Mexican gambler named Lopez, and had attempted to rob him. One of them had placed a pistol at the head of the gambler, while the others seized his effects. Before they could escape Lopez had succeeded in giving the alarm. Roused by his cries, the miners had rushed in and arrested the whole gang.

Again I ask, what could they do? Stand there holding the thieves until a jail was built, or until congress should send sheriff and judge? They must either turn them loose to further and instant crimes, their numbers quickly multiplied by the absence of punishment, or they must themselves do justice, God

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helping them, as best they might. So they selected from amongst their number twelve, who ordered the culprits to receive each thirty-nine lashes; which having been well laid on, with due energy and decorum, three of the five, García and Bissi, Frenchmen, and Manuel, a Chileno, were further charged with robbery and attempted murder on the Stanislaus the autumn previous. The charge was easily enough proved; the men, lying exhausted from their late punishment, were unable to stand or speak during this second trial. "What shall be done with them?" the improvised judge asked of the two hundred assembled. "Hang them," said one. E. Gould Buffum was there, and mounting a stump begged them, in the name of God, humanity, and law, to desist from their meditated action. But the miners, now warmed with drink, would not listen to him. The prisoners were bad men, and this thing must be stopped at once. So with ropes round their necks, the three condemned were driven in a wagon under a tree, and there hanged; after which they were cut down and buried in their blankets. And thereupon the place which before this was known as Dry Diggings was for a time called Hangtown.

Amongst the many Edens of this early epoch none were more radiant than Rose Bar, where two hundred miners were encamped in October, 1849. Of many another Eden, and of all the country round, Rose Bar was the envy, for it enclosed its Eve, a white one, called by courtesy Mrs Mace, being the *quasi* spouse of a New Orleans captain of that name. With rocker and quicksilver, returns were from one to six ounces a day, and life was as high as the labor-returns. Life was high, but it was soft and heavenly, for a woman was there, a white one. Not far from her cabin was a nice nest of Mississippi River poker-players, sardonically smiling in answer to pet names, such as Blue Peter, Dungaree Jack, and Arkansaw Pike. Between

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such rare delights the captain was a spirit blest, for he loved the company of the poker-players, and left with them many an ounce; until at length Mrs Mace, declaring herself competent to do wickedness for the family, left her lord and marched away to San Francisco, where she opened a house of unquestionable entertainment. Nor could Rose Bar ever entirely recover from the refining effects of the female presence. Aside from this, it was an exceedingly moral place. There were no lawyers there, no doctors, and but one thief, Woolly Mike, who rose early one morning, and taking from his company's claim the gold left in the quicksilver over night, went and hid it. Suspected, searched, Mike gave the secreted amalgam a fling which scattered it in the chaparral behind his tent. But the glittering mercury betrayed him. He was lightly punished with twenty-five lashes, twenty minutes being given him afterward in which to walk away.

And now from the close of this year of 1849, behold the august mobs improvised as occasion required in every camp and cañon of the Sierra Drainage, the quiet oaks meanwhile tasselled with the carcasses of the wicked! There were mobs of every quality, and for every emergency; tumultuous routs for the regulation of a carouse; displays of brute force for the promulgation of vulgar sentiment; violent tyrannies for the attacking of homely prejudice and the harassing of sanctimonious piety—mobile masses moulded by wild environment to extravagant opinion. There were mobs to establish a fight, and to settle every species of dispute; mobs to hang, to whip, to tar and feather, to duck, to drive from town; mobs to guide itinerant gamblers on their way, gently to set revolving run-down, erring woman, to direct the brawlings of belligerent drinkers, to christianize with clubs celestial heathen, to assist at the shrinkings and expansions of valuable mining-claims, to dampen the

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enthusiasm of Mexican miners, to light free negroes from the sacred precincts of the immaculate color.

Clothed with God-given intelligence and power, and filled with devil-distilled whiskey, they were ripe alike for gentle ministrations or mad extravaganzas, for sharing their last bread and bacon with the needy, or for administering the hempen fate to those whose characters chance had colored. Cases there were when a victim was required to appease the wrath of an unfortunate miner who had lost his gold dust, or of a teamster whose cattle had strayed, one would answer as well as another, and woe betide the suspicious-looking stranger who falls into their hands while in such a humor. Unless he can give a satisfying account of himself, better had he never been born. It must be admitted that sometimes the matter was determined before the trial, that sometimes the accused was hanged first and tried afterward, if indeed he was tried at all. Neither did he who played the part of hangman stop to consider his fee, nor did he expect anything from the person executed, as once would have been the case in England.

"On my way to Marysville," writes Mr Coke, in 1850, "I stopped a couple of days at Sacramento. The weather was beginning to be cold. I had been rambling all the morning through the town, and was just returned to my hotel, and sat ruminating over a large stove in the bar-room, thinking Sacramento about the most comfortless place in the world. In the course of my walk I had observed a crowd collected round a large elm-tree in the horse-market; on inquiring the cause of this assembly, I was told that a man had been lynched on one of the lower boughs of the elm at four o'clock this morning. A newspaper containing an account of the affair lay on a chair beside me, and having taken it up, I was perusing the trial, when a ruffianly-looking individual interrupted me with, 'Say, stranger, let's have a look at that paper, will you?' 'When I have done with it,' said I, and

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continued reading. This answer would have satisfied most Christians endowed with any moderate degree of patience; but not so the ruffian. He leaned himself over the back of my chair, put one hand on my shoulder, and with the other held the paper so that he could read as well as I. 'Well, I guess you're readin' about Jim, ain't you?' 'Who's Jim?' said I. 'Him as they hung this morning,' he answered, at the same time resuming his seat. 'Jim was a particular friend of mine, and I helped to hang him.' 'Did you?' said I; 'a friendly act; what was he hanged for?' 'When did you come to Sacramento City?' 'I arrived only this morning, and have not yet heard the particulars of this case.' 'Oh well! I reckon I'll tell you how it was, then. You see, Jim was a Britisher; that is, he come from a place they call Botany Bay, which belongs to Victoria, but ain't exactly in the old country. I believe when he first come to Californy, about six months back, he wasn't acquainted none with any boys hereaway, so he took to digging all by hisself. It was up at Cigar Bar whar he dug, and I happened to be a digging there too, and so it was we got to know one another. Jim hadn't been here a fortnight before one o' the boys lost about three hundred dollars that he'd made a cache of. Somehow suspicions fell on Jim. More than one of us thought he had been digging for bags instead of dust, and the man as lost the money swore he would have a turn with him, and so Jim took my advice and sloped.' 'Well,' said I, 'he wasn't lynched for that, was he?' ''Tain't likely,' said the ruffian; 'for till the last week or ten days nobody knowed whar he'd gone to. Well, when he come to Sacramenty this time, he come with a pile, and no mistake, and all day and all night Jim used to play at faro, and roulette, and a heap of other games. Nobody couldn't tell how he made his money last so long, nor whar he got it from, but certain sure everybody thought as how Jim was considerable of a loafer. Last of all, a blacksmith as lives in Broad

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street said he found out the way he done it, and asked me to come with him to show up Jim for cheating. Now whether it was that Jim suspected the blacksmith I can't say, but he didn't cheat, and lost his money in consequence. This riled him very bad, and so, wanting to get quit of the blacksmith, he began to quarrel. The blacksmith was a quick-tempered man, and after a good deal of abuse could not keep his temper any longer, and struck Jim a blow on the mouth. Jim jumped from his seat, pulled a revolver from his pocket, and shot the blacksmith dead on the spot. I was the first man that laid hold of the murderer, and if it had not been for me, I believe the people in the room would have torn him to pieces. "Send for Judge Parker!" shouted some. "Let's try him here," said others. "I don't want to be tried at all," said Jim; "you all know damned well that I shot the man; and I know bloody well that you'll hang me. Give me till daylight, and then I'll die like a man." But we all agreed that he ought not to be condemned without a proper trial, and as the report of the pistol had brought a crowd to the place, a jury was formed out of them that were present, and three judges were elected from the most respectable gentlemen in the town. The trial lasted nearly a couple of hours. Nobody doubted that he was guilty, or that he ought to be hanged for murder; but the question was whether he should die by lynch-law or be kept for a regular trial before the judges of the criminal court. The best speakers said that lynch-law was no law, and endangered the life of every innocent man; but the mob would have it that he was to die at once; so as it was just then about daylight they carried him to the horse-market, set him on a table, and tied the rope round one of the lower branches of a big elm-tree. All the time I kept by his side, and when he was getting on the table he asked me to lend him my revolver to shoot one of the jurymen, who had spoken violently against him. When I refused, he

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asked me to tie the knot so as it wouldn't slip. "It ain't no account," said I, "to talk in that way, Jim, old fellow; you're bound to die, and if they didn't hang you, I'd shoot you myself." "Well, then," said he, "give me hold of the rope, and I'll show you how little I care for death." He seized the cord, pulled himself in an instant out of the reach of the crowd, and sat cross-legged on the bough. Half a dozen rifles were raised to bring him down, but reflecting that he could not escape, they forbore to fire. He tied a noose in the rope, put it round his neck, slipped it up till it was pretty tight, and then stood up and addressed the mob. He didn't say much, except that he hated them all. He cursed the man he shot; he then cursed the world; and last of all, he cursed himself; and with a terrible oath, he jumped into the air, and with a jerk that shook the tree, swung backwards and forwards over the heads of the crowd.'"

Clarence King elaborates in the following language a burlesque of the popular tribunal before the inception of the vigilance organization: "Early in the fifties," he says, "on a still, hot summer's afternoon, a certain man, in a camp which shall be nameless, having tracked his two donkeys and one horse a half mile, and discovering that a man's track with spur-marks followed them, came back to town and told the boys who loitered about a popular saloon that in his opinion some Mexican had stolen the animals. Such news as this naturally demanded drinks all round. 'Do you know, gentlemen,' said one who assumed leadership, 'that just naturally to shoot these greasers ain't the best way? Give 'em a fair jury trial, and rope 'em up with all the majesty of law. That's the cure.' Such words of moderation were well received, and they drank again to 'Here's hoping we ketch that greaser.' As they loafed back to the veranda, a Mexican walked over the hill-brow, jingling his spurs pleasantly in accord with a whistled waltz. The advocate for law said in undertone, 'That's the cuss.'

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A rush, a struggle, and the Mexican, bound hand and foot, lay on his back in the bar-room. The camp turned out to a man. Happily such cries as 'String him up!' 'Burn the doggoned lubricator!' and other equally pleasant phrases, fell unheeded upon his Spanish ear. A jury, upon which they forced my friend, was quickly gathered in the street, and despite refusals to serve, the crowd hurried them in behind the bar. A brief statement of the case was made by the *ci-devant* advocate, and they shoved the jury into a commodious poker-room, where were seats grouped about neat green tables. The noise outside in the bar-room by and by died away into complete silence, but from afar down the cañon came confused sounds as of disorderly cheering. They came nearer, and again the light-hearted noise of human laughter mingled with the clinking glasses around the bar. A low knock at the jury door; the lock burst in, and a dozen smiling fellows asked the verdict. A foreman promptly answered, 'Not guilty.' With a volley of oaths, and ominous laying of hands on pistol-hilts, the boys slammed the door, with: 'You'll have to do better than that!' In half an hour the advocate gently opened the door again. 'Your opinion, gentlemen?' 'Guilty!' 'Correct! You can come out. We hung him an hour ago.' The jury took their seats; and when, after a few minutes, the pleasant village returned to its former tranquillity, it was allowed at more than one saloon that 'Mexicans'll know enough to let white men's stock alone after this.' One and another exchanged the belief that this sort of thing was better than nipping them on sight. When, before sunset, the bar-keeper concluded to sweep some dust out of his poker-room back door, he felt a momentary surprise at finding the missing horse dozing under the shadow of an oak, and the two lost donkeys serenely masticating playing-cards, of which many bushels lay in a dusty pile. He was reminded then that the animals had been there all day."

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Bret Harte gives a similar travesty, concluding it in words to the effect that the crowd becoming impatient at the lengthy deliberation of the jury, the ring-leader put his head in at the door and asked them if they had agreed upon their verdict. 'No,' replied the foreman, sharply. 'Well, gentlemen,' said the mob man, 'take your time; but remember, we want this room to lay out the corpse in.'

Punishment was inflicted in the same liberal off-hand manner that characterized everything Californian in those days. There was less splitting of hairs than of heads. Sometimes the most trivial incident would determine whether a culprit should be whipped or hanged. While multitudes of minor offenders suffered capital punishment, no more could be inflicted upon the worst criminals. Lynching for cattle-stealing obtained throughout the whole country, and even round San Francisco Bay, as late as 1855. A criminal affair was often made a sort of pastime, which might be prolonged or shortened according to the appetite of the crowd, or the time at their disposal.

It was the Hispano-Californians, they said, who stole the cattle about the Bay; but these being the possessors of the cattle, and the lately arrived Yankees needing beef, it would seem to be a question who did the stealing. Old man Murray, as he was called, lost at one time twenty-five American cows, worth four thousand dollars, and his neighbor Fallon one hundred animals, worth six thousand dollars. Two Frenchmen at San Antonio, since called Brooklyn, and East Oakland, caught butchering stolen cattle, were tried by the people and hanged. Two other men, Leonard and Moran, slaughtering back of Blaiz' restaurant, near the bridge, narrowly escaped with their lives.

When in July 1850 four Americans detected four Mexicans in the act of burning a tent and two dead bodies at the Green Flat diggings, not far from

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Sonora, summary executions had not yet become fashionable in those parts, though the people were strongly tempted to hang the body-burners. The Mexicans affirmed that they did not kill the men, but found them there in a state of decay, and following the custom of their country, they burned them with their effects. It was an act of pious charity, not an atrocious deed. There was no evidence against them; nevertheless the miners longed to play judge and hangman, but the time was not yet ripe for it.

At Sonora, incarnadine was the temper of the time. On Sunday the diggers from every near and distant camp came flocking in, each bringing his share of general entertainment in the form of accounts of robbery or murder, and the one who told the best story was the best man. Thus history is made; the positive of one becomes the comparative of another, and the superlative of a third, the latest historian always striving to tell the largest story. The Sunday following the body-burning at Green Flat, over three thousand men gathered at Sonora, and many rumors of dark deeds were afloat. Twenty murders in twenty-five days, they counted up, and robberies in proportion. Men were bad, and women were bad. Under the influence of rich deposits and the inspiration of rivulets of rum, three or four flabby-faced, bleared-eyed females, of the kind called virtuous, had been brought to Sonora, and made the nucleus of refined society. They used to marry quite often. One married anew the day after her husband left for Stockton; another married anew the third day after her husband was hanged. And now they were present in this crowd, speculating in their minds as to their next change, when crack! a pistol-shot is heard, and a stalwart miner bites the dust. So dry and tinder-like was passion then, that men could not even meet to take measures for the suppression of murder without a little killing.

As the afternoon wore away, the air became preg-

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nant with suppressed vengeance. The Mexicans were seized and handed over to the judge of the district. Next morning eighty riflemen marched through the streets, bearing before them the American flag. These were soon joined by three hundred miners, an embassy from the scene of burning, with knives and pistols ornamenting their belts, determined to see punishment inflicted on the burners. After some little parade, the captain of this company waited on the judge, and informed him that his men would brook no delay in the trial of the prisoners; the matter must come up before nightfall. The judge replied that that could not be, as there was no grand jury impanelled, meanwhile warning them not to do violence.

Tuesday there were not less than two thousand men, with muskets and rifles, marching the streets. One would think that every gun in Tuolumne had been brought into requisition. Men who left their digging to shoulder a gun showed their earnestness. At three o'clock on that day the trial of the four body-burners for murder began in the district court. The place was thronged within and without the court-room. The prisoners were arraigned, and pleaded not guilty. At this juncture one of the guard standing on a bench dropped his gun, the hammer of which, striking on a box, sent off the charge with a loud explosion. This was enough. Hundreds of weapons instantly sprang from their sheaths, and a rush was made by the inmates of the court-room for the door. The scene that followed was terrible. Confinement and the uncertainty as to what was coming seemed to madden them. Another accidental shot brought forth a cry of alarm, and renewed the struggles of the inmates to reach the open air by way of door and windows. Outside the court-room walls there was a little shooting in earnest, but no one was killed on that occasion. Quiet was finally restored, and after watching the proceedings in court for a time, the miners finally retired, and let justice take its course.

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The demonstration had been made in a spirit of mobocracy; and yet I have never known another so large and so determined a mob lay down their power so gracefully when assured by the judge that justice would be done. The four Mexicans were not criminal.

Two boys, Hendricks, kept the Colusa Hotel in 1850. About the premises were some twenty wood-choppers and regular hangers-on, among whom was a boy named Johnson. The hotel cash was kept on a shelf in a sardine-box; that is, such of it as was not stolen by some unknown hand. Johnson was suspected, and whipped into a confession of guilt. Meanwhile a mob gathered which did more whipping, and talked of branding; but certain humane boatmen interfered, and saved the lad from further brutality. The sequel pointed to the innocence of the boy; and it was thought he confessed to a crime of which he was not guilty in order to escape punishment; for his tormentors had assured him if he would confess he should not be whipped further. But though perhaps innocent of pilfering the Hendricks' sardine-box, it is very certain if the boy had not been known as bad he never would have been suspected or whipped.

An Englishman, named Sharp, formerly a sea-captain, on Christmas day, 1850, shot to death a man near Auburn. Sharp surrendered to the sheriff, but was taken by the people, tried, and executed.

Irish Dick, as the gambler Richard Cronin was called, although but twenty-one years of age, was known to have killed a man in a street fight, a friend, whom he had mistaken for an assailant. When a short time afterward he shot a newly arrived emigrant in a saloon, he was instantly seized and tried by those present. Guilt was easily proved, and immediate execution determined upon. Placed beneath a tall tree, a rope was put round his neck, the other

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end of which willing hands seized. Dick begged to be allowed to climb the tree and jump from the limb above, but this request was denied him. His bravado lasted throughout the trying scene, which was witnessed by ten or fifteen hundred people. Dick assured them if he only had his knife, with freedom to use it, he would like nothing better than to fight the crowd.

Another account of this execution is given by Saint Amant, French consul at Sacramento in 1851. Allowance must be made for discrepancies in these statements, as, writing the incidents of the time for publication in France, historical accuracy would be liable to be sacrificed to the making of a good story. According to Amant's account, when the mob had brought Cronin to a tall tree which had been chosen for his execution, it was found that there was no ladder for the hangman to climb up by. This difficulty, however, was soon overcome. One end of the rope was placed in a noose round Cronin's neck; the other was placed in his hand, and he was told to climb the tree, monkey-fashion, while those below would direct him, pointing out the particular limb to which the cord should be attached.

The condemned was allowed time to smoke a cigar, which he asked as a particular favor might be a real Habana. Having knotted the rope to the branch designated, he was then permitted to make his farewell address, which proved to be the story of his life. He told of much wickedness, and seemed comforted thereby. He would have continued talking for an indefinite time, and so have postponed the end of that recital which was to begin his eternity; but the patience of his hearers being exhausted, the foreman of the jury that had tried him gave the signal agreed, and without a word further, the gambler threw himself from the limb on which he stood. The fall was arrested by the avenging hemp, and the soul sped quickly hence.

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A trunk was broken open in a room of a public house at Johnson's Ranch in October, 1850, and four thousand dollars were stolen from it. A man and his wife, named Hewsters, cooks employed in the house, had occupied the room, and on them suspicion was fastened. They protested their innocence. With the woman they did nothing; but as the increasing crowd increased its potations, its members saw through the case more and more clearly, until they concluded to whip the facts out of the man. Tying him to a tree, they laid bare his back, and cut it raw with a hundred lashes. Still the man protested his innocence, and the brutal crowd soon arrived at the same conclusion. Commenting on the outrage, the *Placer Times* remarks: "If the man is really innocent, the violators of his person should be severely dealt with." It is by such shallow logic we are taught politics and morals. Any school-boy might know, did he take the trouble to think, that the perpetrators of this deed were equally in error, whether the man was innocent or guilty.

New York of the Pacific was the name of an embryo metropolis of magnificent expectations in 1850 and 1851. It boasted a hotel called the Kennebec House, into which three men forced their way one night, and amused themselves by opening trunks and carrying off the contents. Arrested by citizens, they were tried, whipped, and branded on the hip. To escape hanging, which one of them greatly feared, he endeavored to kill himself by severing an artery. That comfort, however, was denied him; for though he cut his arm nearly off, he was saved for milder punishment by his whippers.

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CHAPTER XI.

FURTHER ANTICS OF JUSTICE IN THE COUNTRY.

Now by Saint Paul the work goes bravely on.

Colly Cibber.

Long before high carnival was held in the cañons of the Sierra Drainage, the petty sovereignty of Sutter had inaugurated a system of jurisprudence, of the Swiss captain's own invention. When an Indian committed an offence against any of the white inhabitants of Sutter's Fort, the commander of the fortress himself judged and executed judgment. Calmly and fairly as one who would secure the confidence and maintain the respect of the natives, Captain Sutter examined the cases which came before him, pronounced judgment in accordance with the evidence and with the dictates of his own conscience, and then ordered the culprit whipped or shot, according as he deserved. This was the course of procedure where the accused was one of his own Indians and the injured one of his white retainers.

When a white man offended a white man in his employ, all the white men of the Fort were summoned to sit in judgment on the case. In such trials Captain Sutter presided as chief, and the others as associates, or jurors, and by the tribunal so organized, the penalty, if guilt was found, was fixed and exacted.

For criminal cases arising among the natives themselves, Captain Sutter arranged for them a court of their own. He as monarch nominated the judge and appointed the officers. Having a military organization

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composed entirely of his own native adherents, it was not unnatural or difficult for him to organize a tribunal in which they might try their own causes, and by their own officers execute judgments.

No sooner was gold discovered, however, than this ingenious method of administering justice to the satisfaction of all concerned, in common with every other means for the benefaction of the natives in those parts, was crushed under the heavy heel of gold-thirsty adventurers.

Then began in and round the Fort, beneath the very eyes of the occupants, and indeed, in many cases, by the occupants themselves, every species of depredation, until the poor Swiss, his mills unbuilt, his manufactories abandoned, his cattle stolen, and his grand enterprise for the settlement and pacification of that valley forever blighted, sought refuge at Hock Farm, where he thought to die in peace, though even that blessing was denied him.

Samuel Brannan, at an early day, kept a store within the walls of Sutter's Fort, and there learned his first lessons in popular jurisprudence. To him resorted new-comers from the Bay, and miners from the mountains, so that he possessed an excellent opportunity for seeing and judging all. His Mormon flock, on whom he kept a fatherly eye, particularly on their gold-gatherings of which he did not decline to receive a portion, worked on an island of the river near by; but these gave little trouble. Indeed, as we have seen, there was a period of remarkable quiet about that time; but both before and after the reign of righteousness in the mining districts, Brannan saw and learned enough to be of value to him for the three decades which followed.

As at San Francisco, before a jail was built at Sacramento, a dismantled brig lying in the river was employed for prison purposes. Many strange tales that old craft could tell. It answered the purpose fairly—

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that is to say for the rogues. Escape from it was easy, so it was said, especially after the fetters were unlocked with money.

One issue of the Sacramento *Placer Times and Transcript*, in July, 1850, contains accounts of crimes committed as follows: Twenty-five miles below the city the body of a man was found with a lariat twisted round the left wrist, neck, and shoulders, a deep gash over the left eye, and another under the left ear, the feet tied with a black silk handkerchief, and all the pockets turned inside out. Another body was discovered tied to the limb of a tree. Not far from Yuba River the body of a murdered man was found. At Nevada a horse-thief had been whipped by the people and put to work at five dollars a day until eleven ounces of stolen gold-dust should be returned. Lastly, a dispute arising between a Nevada monte dealer and a person betting, the latter drew a pistol, and firing missed his mark, but wounded three others. No notice was taken of this affair by the horse-thief whippers. The San Francisco *Pacific News* of August 1, 1850, contains accounts of several guerilla bands in southern California, demi-savage outlaws drifted in on the tide of emigration from the south; also the news of a murder near Grayson; notice that the citizens of Jamestown and Sonora had organized a night patrol round their respective towns; an account of the robbery of a monte bank at Sonora while the dealer's back was turned; of another at Jamestown, the thief seizing a bag containing eight hundred dollars before the eyes of all congregated about the table and making his escape with it; and so on. In the last mentioned instance a comrade of the thief was hanged to a rafter of the saloon, as an accomplice, but his friends paying the amount stolen he was let down. The gambler put the money thus returned to him in his box, and in less than an hour it was again emptied. This time the thief was instantly detected, the rope fastened to his neck and again thrown over

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the rafter. After being half hanged and whipped he was turned loose. Thus it was that from small beginnings, petty thefts, and fatal fights in which it was impossible to determine who was most criminal, the slayer or the slain, wickedness went on assuming a yet more belligerent attitude, and punishment was equally beastly—instance the hanging of one Bowen in a slaughter-house at Curtis Creek, January 26, 1851, for the killing of Alexander Boggs.

At a gaming-table at Sacramento two men quarrelled the 26th of February, 1851, and stepped into the street to finish their fight. A third person, Myers, passing, expostulated, whereupon one of the combatants, Frederick J. Roe, an Englishman, turned on him and exclaimed, "What the devil have you to say?" at the same time drawing a pistol and shooting him through the head. Roe was arrested and taken to the calaboose, round which a crowd gathered, crying: "Hang him!" "Hang him!" The people were at length quieted by speeches from the better citizens, who formed themselves into a tribunal, and repairing to the Orleans Hotel proceeded to try the prisoner. Growing more and more excited as the trial progressed, the people in the street insisted that the investigation room should be cleared of lawyers, and affirmed that it mattered little to them what conclusion the tribunal arrived at, they would hang the prisoner in any event. Nothing was done, however, till the murderer was pronounced guilty by the tribunal. The crowd then made an attack on the prison, but were kept at bay by the sheriff and his posse for an hour. The officer being overcome at last, the door was broken in, and the prisoner seized and hanged from an oak-tree then standing on the corner of Sixth and K streets. About the same time three men, surprised while stealing horses at Foster Bar, were captured; one was shot in attempting escape, and the other two were immediately hanged.

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Two men, New Englanders, caught with stolen horses in their corral on the Cosumnes, were on the 7th of March, 1851, condemned by acclamation and hanged on the spot, all within half an hour. A jury trial was denied them. Another horse-thief was hanged about the same time on the Yuba. The 23d of March an attempt was made at San Francisco to blow up a new building near Rincon Point. An eight-pound canister of powder placed in a recess in the wall was ignited, causing a report as loud as that of a cannon. An amiable and much-beloved man, E. M. Jarvis, while walking with his wife near the Mission, on the night of the 26th of March, was stabbed to death by one Slater. It appears Jarvis had incensed Slater a few days previous by preventing a fight in which the latter had a hand. One day during the trial, while Slater was being conducted by the officers to the prison, an attempt was made by some mounted men from the Mission to seize and hang him, as has been more fully described in a previous chapter, but their effort was frustrated by the officers and met with the disapproval of the people. He was committed to await his trial in the district court.

Thus matters stood when the great San Francisco fire of the 4th of May for the fifth time laid the city in ashes, annihilated business, and hopelessly ruined thousands of hitherto prosperous men, sending despair to their hearts and misery to their homes. This was exactly what the emboldened miscreants so long unwhipped of justice had sworn to do, that they would be avenged on the cities whose people would not permit them to murder and plunder at pleasure. Instead of blaming these sufferers for hanging, the wonder is how they could have remained patient so long. This was the work of incendiaries, as several of the previous fires had been, and as was the burning of Stockton two days later; a house was fired in Sacramento at the same time, and Nevada was burned but a few weeks previous. All this was but one grand

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scheme concocted by the rascals in convention assembled for the simultaneous annihilation of the chief cities of northern California.

There was a desperate band of horse-thieves in the neighborhood of Monte Diablo in 1851, and a son of Antonio Pacheco, twenty years of age, was supposed to be one of the number. On the 17th of February young Pacheco was detected in the act of stealing a pair of boots from a store in Martinez. The citizens determined to make an example of him, and although his father begged his liberation, adding earnestness to his prayers by an offer of two thousand dollars for his release, they bound him to a tree and administered one hundred lashes with a whip of six cords. It was reported that Pacheco's friends, to the number of eighty, had threatened to ride into Martinez and burn the place. The citizens, alarmed at the threat, removed their papers and other valuables to Benicia for safe-keeping, but nothing further came of the wrath of the Pachecos.

The neighborhood of Reading Springs and Secret Diggings had been visited by horse-thieves in the spring of 1851, and one man, Spofford, was known to have stolen a large number of horses. At length Bradford, McKissock, and others went in pursuit of Spofford. They came upon him in the woods skinning an antelope; Bradford fired and killed him. They recovered more than forty stolen horses.

Two thieves, with a band of mules and horses which they had stolen, most of them from the rancho of Gage and Almond, while crossing the Cosumnes with their booty the 7th of March, were arrested. Guilt was so palpable that proof seemed unnecessary; nevertheless the two men were arraigned, and a motion was made to try them by a people's judge and jury. As tidings of the affair flew from claim to claim, the diggers came pouring in. When they heard the facts and the proposal, they laughed at the idea of trial

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under the circumstances. What should they try them for? There were the thieves; there was the stolen property. Trial? Bosh! Well, then, hang them at once. This sentiment suited better their temper. The men were Yankees, one giving his name as James Baxter, from Maine, and the other Charles Simmons, of Massachusetts. When told that they were to die in half an hour they begged to be permitted to live a little longer. This beautiful green and golden earth, the all-glorious sun and sweetly distilled air, the mingled enjoyment of soul and sense absorbing palpitating life, they seemed now just to begin to enjoy. But it was too late; such beauties were not made for horse-thieves. They should die; and they did die with the expiration of the half-hour. During the season a hundred thousand dollars' worth of stock had been stolen from that section, and the people were tired of it. Only the day before one Orville Hamilton, a horse-thief, made his escape while the jury were deliberating on his case. Sage, an accomplice of Hamilton, received thirty lashes for his share.

A quarrel took place at Shasta City on the 20th of March between a drunken man and his partner; the latter was killed, and the former attempted escape, but was captured and tried by the mob. The trial lasted but a few minutes before doom was pronounced; he should be hanged at four o'clock that Sunday afternoon. The man took the matter very coolly. He had entertained no ill-will toward his partner; they had been always the best of friends. But the deed was done; he deeply regretted it, but it could not now be helped. He deserved to die, and there was the end of it. Eating a hearty dinner, he talked as usual until the time appointed, when he mounted the platform with a firm step and quiet demeanor. The rope adjusted, he was given permission to speak. He warned all present against drink; that alone was now to cost him his life. He would

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like to write a letter to his wife, but supposed he had not time. As the thing before him was something that must be done, he might as well be about it. So saying, he leaped into the air and came down with a jerk that settled his earthly affairs forever.

McEvoy and Williams were two friends living at Mokelumne Hill in the spring of 1851. They were out of employment, and decided to begin business by conducting a monte table. They needed capital for the purpose, which they determined to obtain by stealing horses. Their plans were well laid, but were early frustrated. A horse was stolen, and McEvoy was just in the enjoyment of the proceeds of the sale, sixty dollars, when he was arrested, taken out of town, and given twenty-five lashes.

Mr Baker, of Brown Bar, Weber Creek, was a quiet, gentlemanly person, and much respected. His partner, Andrew Scott, an unprincipled villain, became incensed at some trivial offence, and on the 5th of April killed Baker, stabbing him five or six times. It was generally known that Scott had murdered two or three other men, among them one McManus, of Missouri. This killing of Baker excited intense feeling amongst the miners, but they refrained from violent measures, and gave Scott the benefit of a fair trial, with a jury of twelve men, who found him guilty. Then he was promptly hanged.

McMurtrie and Brothers at Mokelumne Hill missed some gold dust from their store in April, and, acting on their suspicions, they enticed a young man into a secluded spot in the woods, where they accused him of the theft. His denial exasperated them, and they lashed him with a rope and switches two hundred and fifty times, determined to extort a confession. This expedient proved unavailing, and they returned to town, where a more thorough search for the lost treasure was made. It was discovered in the spot where they afterward remembered that they had secreted it. Their victim was then released, and for

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fear of like punishment being awarded them by the indignant miners they left the place immediately.

A horse-thief, named Gatson, captured in Nevada City on the 20th of May, after a trial by the people, received thirty-nine lashes, which were administered by a man whom he was permitted to select. On the 29th, George Baker was hanged by the people, just beyond the limits of the city of Stockton, for a crime committed six months before. The execution was bunglingly done, and the bystanders surfeited of horror.

Sometime in May a notorious robber named Jenkins was condemned to die by the citizens of El Dorado. He made his escape, but was recaptured near Sacramento, where he received one hundred lashes, was branded on each cheek with an R, and then delivered over to the authorities of Sacramento.

Between the people of Napa and the people of Benicia in May, 1851, there were open and declared hostilities, and the cause was not a woman. The Napa people did not like it because a Benician named Cooper came to their town with a petition to the governor for the final release of a murderer which he purposed to circulate for signatures. The man killed had been their most worshipful justice of the peace, and the man who killed him was now their 'meat,' as with more force than elegance they expressed it. "Petition us no petitions," they said, "and governor us no governors; let every town attend to its own affairs."

But this doctrine did not just then suit Cooper. McCauley, for that was the murderer's name, had many friends, among whom was the governor himself. The governor was christened John McDougal, but in political puddles he was familiarly called 'I John,' such being the words beginning his sometimes ludicrous proclamations. John Bigler, another governor, could lay claim to the same distinction. The governor and the murderer were friends, because the murderer had

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voted for the governor, and had induced others to vote for him. 'I, John,' was a good governor to those who murdered, or who wished to murder, provided they voted for him often enough; but for the sake of those weak in their faith in him, he would have it sound as the voice of his people which said to him, 'Loosen this bloodhound.' Hence it was that Cooper appeared at Napa, the scene of the slaughter, with this petition; not that there was any need of a petition so far as 'I, John' was concerned, but for the reflex influence of such prayer upon the people themselves.

The men of Napa, however, did not want McCauley discharged; he had killed their justice of the peace, and they were now going to kill him. Therefore they would none of McDougal, nor of Cooper, nor of the petition. Calling a meeting of citizens, a committee was appointed to wait on Mr Cooper and request him to depart. Mr Cooper declined. They ordered him to go. Mr Cooper refused. Then they took him to the ferry and thrust him across, warning him that further attempts in that direction would insure him a covering of feathered tar and a free ride on a rail. The people of Napa, in common with those of other parts of the state, were becoming tired of pardons extended by the governors to murderers who elected them to office. At the March term of the Napa court of sessions this man, Hamilton McCauley, had been tried for the murder of one Sellers, municipal judge, and condemned to death, the execution to take place on the 15th of May, and they determined that, reprieved or not, the felon should die, and on the day appointed.

He was a gentleman-villain, was McCauley; an adherent of southern chivalry, and a man of friends and family. He was not the kind of murderer that laws were made for. Likewise he was an honest villain; to him opinions were principles, and his had been handed down from ancestors of revered memory,

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and inculcated during his youthful days. But he was wrong; his principles were erroneous, though honestly entertained; moreover, he was passionate; and for his principles he must die, not the death of a martyr, however, but that of a murderer. And for such law-breakers laws were not made.

It was all done in a moment; but though not premeditated, the killing was unjustifiable; it was the effect of an outburst of passion, or a fit of temporary insanity, as gentle Mrs Fair's counsel would call it.

The way it happened was thus: One day at Napa, for some real or fancied offence, McCauley attempted to chastise a black man. In days gone by he and his sympathizers had often whipped 'niggers,' but that was where the colored man was chattel, and dare not strike back. It was consistent in those days with chivalrous courage to strike a man who could not strike back. The sentiment was similar in this instance, but the action and result were different, from the fact that the assailed might retaliate, and the black man being the better of the two, the white one was badly beaten.

Not long after a party of village politicians, amongst whom were McCauley and Sellers, assembled in a store, happened to be discussing the question of slavery, when Sellers, who was opposed to McCauley in opinion, imprudently alluded to McCauley's defeat in his recent encounter with the black man. Scarcely were the words out of his mouth when the bowie-knife of McCauley was buried in the breast of Sellers.

There was talk of instant hanging; but aside from the objections of the law, McCauley had many friends, and they succeeded in protecting him. Sympathy in a great measure turned on the slavery agitation, which ran high here as elsewhere in those days. It so happened that in sentiment Benicia was mostly southern, and Napa northern; so that the former was for McCauley and the latter against him. The two towns confronted each other, angry and belligerent.

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At this time it was deemed dangerous for a citizen of either place to be found in the other. We have seen how Cooper was treated, but then his mission was not one pleasing to them. On the other hand, R. L. Kilburn, of Napa, visited Benicia, when he was assaulted and would have been badly injured but for the interference of his friends. A party from Napa were awakened from sleep one night by a shower of stones which poured through the window of their room at the Benicia Hotel. One was severely injured, and all were glad to escape under cover of the night.

Before daylight in the morning of the day named for the execution, the sheriff of Solano county, with a posse of ten armed and mounted men, was on his way from Benicia to Napa with the reprieve in his pocket. He would have gone the night before by a little steamboat, of which Baxter was captain, which then plied between the two places. But Baxter was not in sympathy with the men of Benicia; so when he learned that the governor had signed the reprieve he slipped away before the usual hour and conveyed the tidings to Napa. There was no hesitation by the men of Napa as to what they would do. Napa River was then crossed by means of a ferry-boat. The unjust pardon was coming—was, indeed, at hand. When the sheriff's party arrived at the ferry, strange to say, the boat was on the other side. Lustily official lungs shouted for the ferryman, but there was no answer. All was quiet; not a soul to be seen; and there was nothing to be done but to proceed up the river to some point which could be forded. The delay thus involved was exasperating in the extreme; but hurrying forward, in due time the party arrived within the town. There also all was quiet; few were astir. About the jail nothing peculiar was observed, nothing more than might be expected on the morning of any ordinary execution. After all, thought the sheriff, we are in good season. Everything is safe; nothing could be better for our purpose. But stop! What

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ominous-looking hemp is that which stretches from the prison-door in the second story down the stairway to the ground? Following the rope up the stairs and into the prison, they found attached to the end of it, drawn tightly up to a beam in the ceiling, all that remained of Hamilton McCauley.

The month of June, 1851, was prolific of popular tribunals all over the country. It was now that there was being formed at San Francisco the first Committee of Vigilance, to which we refer in the chapters following. But first a few more words touching affairs in the country.

The tent of a Chinaman in the southern mines was entered by three men, who attacked him while sleeping and attempted to rob him. He gave the alarm, and the burglars were caught in the act, but two of them effected their escape. The one remaining was immediately punished by the crowd, being suspended to a tree for some minutes, but released before death ensued. Another was captured the next morning, and received one hundred lashes. The third successfully evaded his pursuers.

At Melone, by the decision of a popular tribunal, two men were executed in midsummer, one for the assassination of Lyon, at Sonora, and the other for stabbing Acklin. The unfortunates were both Mexicans, and the tribunal that judged them was composed of Mexicans and Americans.

One Augier, a trader at Pleasant Springs, discovered bogus specimens of gold in the dust paid him by a Chileno who had been trading with him. The man was arrested on suspicion and taken to other tents, whose occupants identified him as one who had attempted the same trick with them. Efficient and energetic men then took the knave, gave him twenty-five lashes, and bade him go and return no more.

A Chinaman, while mining at Drytown, in Amador, was shot and killed by a Mexican, who made an in-

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effectual attempt to shoot several others. The miners caught the Mexican and hanged him without trial. Although the crowd favored his execution, but few were sufficiently callous to carry out the sentence. As no suitable rope was at hand, a log-chain was fastened to the limb of a tree, with just enough rope for a noose. This was placed over the man's head, not without difficulty on account of his struggles; but at last the execution was achieved, though in a disgusting manner.

I have spoken several times of the existence of large and small organizations for the conducting of systematic swindling operations, but I have only one instance where an honest man was approached with an offer for his services in that direction at a fixed salary. This occurred at Nevada City, California, in July, 1851, and a gentleman of veracity living there at that time vouches for the truth of the statement.

A friend of this gentleman, a wild, frolicsome young fellow, but wholly void of evil intentions, said to him one day:

"I am offered seven hundred dollars a month to engage in stealing cattle and horses."

"Indeed!" was the reply, "that is a good salary; why do you not accept?"

"Sir," he exclaimed, "I am not a thief!"

It appears that the ungovernable spirit and reckless bearing of the young man had drawn this offer from those who followed cattle-stealing as an occupation and hired helpers at a fixed salary. It should be remembered that in the days previous to the gold-discovery and shortly following it, cattle were branded by their owners and left to run at large, and that there were immense droves of them running about, particularly in the southern portion of the state.

Among the early arrivals at Sonora was George Snow, of Maine. He worked industriously at the

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mines, until he had amassed quite a little fortune, enough to excite the cupidity of some Chilenos in his employ, who determined to kill and rob him. In order to facilitate their design they purchased of him a long-tom on the 24th of June, 1851, which they agreed to pay for next day, if he would call early in the morning at their cabin for the money. The Chilenos lived in a sequestered spot at Dragoon Gulch, where they thought to effect their purpose without detection. To perfect their plan they dug a grave for their intended victim in the ground beneath their bed, and then awaited his arrival. Snow had scarcely entered the cabin before one of the Chilenos snatched the gold dust from his belt, while the others attacked him with knives. Severely wounded, with extraordinary effort he reached the opening in the tent and called for help. His cries were heard by some men working at a distance of two hundred yards from the cabin; the Chilenos fled as soon as they saw their failure. Snow survived his injuries but a short time. Search was made for the Chilenos, and two of them were subsequently captured and taken to Shaw Flat, Snow's late residence, where trial by the people awaited them. Although the road in that direction was thronged, there was no extraordinary excitement. It was noticed that most of the miners carried double their usual arms, and about them was an air of quiet determination not favorable to the assassins. Two juries were impanelled, one for each case; evidence was brought up of such convincing weight that each jury unhesitatingly pronounced a verdict of guilty. The younger of the two, Antonio, had been identified by Mr Snow, in his dying breath, as the man who held the gold dust while the others were stabbing him. Antonio confessed that he had been aware of the intentions of his comrades for a fortnight, and knew of their digging the grave, but did not think he was amenable, as he did not commit the murder. The elder man

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was sulky, and would make no confession; his visage, marred by crime, was indicative of the worst of passions; he was large and athletic, while Antonio was quite young and small of stature. Two other Mexicans who escaped were said by Antonio to be guilty of the murder; they, he said, had already murdered three Americans, and had planned to kill another. All these villains had lived together for some time at Dragoon Gulch.

After the verdict was pronounced, the will of the people was demanded by the chairman. In accordance with their vote the men were taken to the scene of the murder, and there on Sunday afternoon at four o'clock they were hanged, and buried in the grave they had dug for their victim. Fully a thousand persons accompanied the condemned men to their place of execution and burial.

During the same morning, at Sonora, a serious melée occurred on the street. Marshal McFarland had arrested a Chilean, and was taking him to jail, when the officer was fired on by a Mexican. The marshal returned the fire, when the Mexican rushed upon him with his knife. Again the marshal fired, and the Mexican fell dead; other Mexicans then undertook to rescue the Chilean and avenge their comrade's death, but reinforced by a constable, the marshal overpowered the party, wounding three of the assailants, and one fatally.

One Saturday night early in June five men lay sleeping in the store of Bemas and Company, at Campo Seco. About midnight eight burglars entered the store without waking the occupants. Five of them, each with drawn bowie-knife and cocked pistol, took their stations over the five sleepers, while the other three proceeded to rob the store. Presently the sleepers awoke, and were obliged to remain the unwilling witnesses of the rifling of the premises. At length, while the robbers were carrying away an iron chest, one of the men belonging to the store

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managed to slip away and give the alarm. The town was raised and the robbers pursued. The chest was found about four hundred yards away, but the plunderers escaped.

One day a man of villainous aspect dropped upon Oregon Bar. He said his name was Walden; that he was without money, hungry, and thirsty. The miners gave him food and drink, and after lying about the place for a day or two he departed. No sooner was he gone than the camp doctor missed from his cabin a gold-dust bag containing two hundred dollars, and some fresh meat cut ready to stew for dinner. The vagrant was instantly pursued, brought back, tried, and sentenced to be hanged; but as there was positively no testimony against him, not even sufficient to hang a man already condemned before trial, it was tacitly understood that the man should not be strangled to death, but only choked into a confession. Walden, though he swore he stole nothing, apparently did not object to be hanged, and indeed he nearly brought on his own death, for making a desperate kick at the bungling miner who adjusted the rope in such a way as to hurt his neck, the other foot slipped, leaving him dangling. Before the miners could cut him down life was nearly extinct, but by strenuous efforts he was resuscitated. The man would confess nothing, and either more testimony must be obtained or he must be discharged. A happy thought struck the doctor. Administering to the culprit a powerful emetic, soon there was brought to light pieces of meat, which the doctor thought on a pinch he might swear to be the same stolen from him. After a little more choking, however, Walden was liberated. As he proceeded on his way he was narrowly watched, the miners thinking if he had really stolen the gold dust he would take it from its place of concealment and carry it away with him. But the man walked straight along the road, turning neither to the right hand nor the left. The miners concluded to make

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one more trial before letting him go, and if possible frighten him into a confession. Coming up to him they told him they had found some fresh evidence, and that he must come back and be hanged. "Well," replied Walden, "hang me if you want to, but do it speedily and respectably, without humbug, harangue, or torture." Finding him so much more ready to die than to confess, they told him he might go. "Then," said Walden, with the most perfect nonchalance, "give me something to drink, and trouble me no more!" which was done.

Sunday morning, the 29th of June, a young man entered a complaint to the sheriff at Sonora that, while in the house of a Mexican woman, another man wrenched from him his pistol, struck him over the head with it, and then snapped it at him. The pistol missing fire his life was spared. The sheriff and his deputy proceeded to the house and searched it, but finding no one there they started to go, when on looking under the bed they discovered the man, covered with clothes. He was armed with two revolvers, a double-barrelled gun, and a bowie-knife, only. Dragging him forth they looked at him, and finding the resemblance to the description of one of the Campo Seco robbers so striking, they committed him to prison, sent word to that place, and soon he was identified.

The prisoner's name was David Hill. Next day he was taken by the people to Campo Seco, and tried and condemned to death. It was agreed that the execution should take place in an hour and a half. Meanwhile, as the prisoner expressed a wish to make some disclosures, a committee of five was appointed to attend him for that purpose, who soon reported that they deemed the proposed confession of sufficient importance to delay the execution till the next day, which proposal was acceded to. The confession was made as promised, and it led to the arrest of others of the gang. They then proceeded to execute the

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sentence which had been pronounced upon him. "About six o'clock," says the *Sonora Herald*, "Hill was led forth to execution. An immense number of accomplices and other villains had collected from various camps. After the prisoner was placed upon the stand he made a few remarks, describing his life as one of crime, and warning others against following his course. He also said that he had robbed and stolen, and done other acts of crime, but had never shed blood, and he threw himself upon the mercy of the people. The question was then put, Shall he be hanged? A large number answered ay, but an equal number responded in the negative. Immediately some hundreds of pistols were drawn, and a universal stampede occurred. Horsemen plunged into the crowd and over them, and the people ran in every direction. Order being partially restored, several persons spoke for and against the execution, until at length George Work arrived by himself and asked to be heard. He then pledged his own life that the prisoner should be forthcoming at the district court if they would deliver him into the hands of the civil authorities. His remarks were responded to by cries of 'Thornly!' 'Thornly!' In the excitement the prisoner was taken from the stand, his hands all the while pinioned behind him, and he was thrust into a wagon, which was immediately driven off at a rapid rate for Sonora. The sheriff and one other person were also in the wagon, and several others accompanied them on horseback. News of the result having reached here shortly after the rescue, Mr L. D. F. Edwards, accompanied by E. Lindberg, with a gong, passed through the city, and called a meeting of the people instantly in front of Mr Holden's store. Mr Edwards then addressed the crowd in a short but very energetic speech, referring to the escapes of criminals heretofore, and the danger of our citizens while such thieves and rascals were permitted to escape. He proposed to take the prisoner as soon as he might arrive in town and hang

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him. There was not a dissenting voice. The crowd then prepared with weapons to meet the sheriff and the prisoner at the entrance of the city. They came in a wagon, with two persons alongside on horseback with pistols drawn. But all was of no avail. The men in that crowd were not to be frightened. They followed the wagon, driving at a rapid rate, until it struck against a post, it being dark. George Work then jumped out with the prisoner, holding him by the collar, and both ran at full speed for the jail, plunging through the arroyo, while the crowd behind were shouting, 'Stop him in front! We are afraid to shoot lest we may kill our friends! Stop him in front!' Mr Lindberg soon caught the prisoner behind, and hung on to him, compelling Hill to drag him along, and thus impeding Hill's progress. Colonel Cheatham, also, all praise to the man, ran ahead at full speed to the jail, and planting himself before the door, cocked his revolver, and as George Work and the prisoner came running up, he placed one hand on the prisoner, and presenting his pistol toward George, said: 'George, you have a pistol and I have a pistol; yours is cocked, and so is mine. Blow away! I can kill too—but let this man go!' Others by this time came up, and one party taking George, another the prisoner, no shots were exchanged, and the rescue was made. Two persons threw a rope over the prisoner's neck, and away he was led to execution. The place selected was the limb of a tree behind the El Dorado. A minister was requested, and fifteen minutes allowed, the prisoner being surrounded by a ring of firm men, who were cool and determined in the work before them. A large crowd was gathered round; but all were still as death. The fifteen minutes having expired, the signal was given, and in an instant the wretched man was hanging by the neck. There was scarce a struggle. The crowd were deeply impressed, but all were satisfied of the righteousness and necessity of the punishment. All through the city, the

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rowdies, men who live sumptuously and yet do no work, men who are marked, and against some of whom there are more than suspicions of guilt, were solemn and subdued. Two or three might be seen in a squad, in various places, talking softly, and evidently alarmed for their own safety. We say, keep the halter ready, and use it whenever one is caught, be he American or foreigner. We glory in the fact that American justice is dealt out to all alike. Hill was from Cortland county, New York. Among the last words uttered by him were that his confession was true, and the several persons implicated by him were guilty as he had described."

Sonora at this time was one of the largest and most thriving towns in the southern mines. They were a rioting, roistering crew, and the people of Columbia, near by, were not far behind them. Population there was extremely mixed, and the Mexican element, largely infused from the first, tended in nowise to allay eruptions. But while there were scores of hanging scrapes before this in the mines, it was not until midsummer, 1851, that San Francisco awoke to her high privilege.

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CHAPTER XII.

THE BURDUE-STUART AFFAIR.

My life is one demd horrid grind.
Nicholas Nickleby.

On one of the principal thoroughfares, and in one of the most central business localities in San Francisco, that is to say on Montgomery street, one door from Washington, was situated the dry-goods house of C. J. Jansen and Company. The firm was highly respectable; their business was large, and their dealings fair. The senior partner, Mr Jansen, was a man of slight physical build, but intellectually strong, and though of somewhat grave demeanor, his warm heart and unobtrusive ways had won him a host of friends.

American merchants devoted more time to business then than now; in California they confined themselves more closely than elsewhere. All who had come hither must lay the foundations of fortune, and each was eager to outstrip competitors and occupy a front position. Furthermore, social intercourse offered few attractions to minds saturated with such ambition; and public affairs, which, through neglect on the part of good men, had fallen into the hands of low foreigners and professionals, were repugnant to all honest, high-minded citizens. Hence it was that the partners of large firms were found at all hours of the day attending to business, waiting personally on their customers, and at night writing up their books, often cooking, eating, and sleeping on the premises.

About eight o'clock in the evening of February 19,

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1851, a man entered the store of Mr Jansen and began to examine the goods. Sliding noiselessly about, he looked at hats, shirts, and overalls, meanwhile watching narrowly the door, and taking in the general situation.

There was nothing peculiar in the appearance of the man. In those rough days, and in the absence of refining woman, few were very particular about their dress, and those few were not of the better sort. In the mines white starched linen was the garb of vice; 'biled shirts' covered the black hearts of murderers and the soiled character of gamblers, saloon-keepers, and pettifoggers. Honesty throve in coarse woollen, and often under the ragged red shirt were belted hundreds of dollars in gold dust, the result of sweating toil; therefore it was the most difficult place in the world to detect shades of character in dress. Dress could be so easily assumed without exciting suspicion, for in the multitudinous changes of place and occupation everybody was throwing away his old garments and putting on new.

Some of the streets of San Francisco were at this time dimly lighted; others were not lighted at all. It had been raining a little during the evening, and the bright blaze from the chandeliers of gambling-saloons which poured upon the miry unpaved streets rendered the surrounding darkness only more opaque. Nevertheless it was yet early, and business men had not closed their doors for the night.

Mr Jansen was alone in the store when the customer entered. The man's face was covered with thick mustache and whiskers; he had on a gray coat and broad-brimmed hat, and acted as if slightly intoxicated. At length stepping toward Mr Jansen, who was back at the desk, he said he wanted to buy a dozen blankets.

Mr Jansen moved forward and laid his hand on a pile of colored blankets, when the man said: "No, white."

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Just then another man entered the store and also asked for blankets. He was taller than the other, was partially muffled in a cloak, and wore a hat pointed in the crown. The room was fifty feet long, and was lighted by one candle only which stood on the desk. The tall man did not enter more than twenty feet from the door. While Mr Jansen was stooping to get the blankets, the tall man cried "Now!" Whereupon the short man struck the store-keeper senseless with a slung-shot, and the other rushing forward, both beat him on the head and stamped upon his breast until they thought him dead, or at least sufficiently at rest to give them no further trouble. Then they opened the desk, and taking what money they could find, about two thousand dollars, quickly fled.

From the time the first man asked for blankets the whole affair did not occupy three minutes. At length Mr Jansen so far recovered as to crawl to the door and give the alarm. Theodore Payne, whose store was then opposite, and who had been waiting for Mr Jansen to accompany him to dinner, as was his custom, immediately ran to his assistance, but the robbers had made good their escape. The authorities were notified of the circumstances; the appearance of the men was described by Mr Jansen, and a thorough search instituted.

It happened that at this time the police were in search of one James Stuart, who was charged with having murdered the sheriff of Auburn, and had escaped jail two months before at Sacramento, where he had been confined awaiting trial. Thursday, the day after the Jansen robbery, a man was arrested who gave his name as Thomas Burdue. He had a long story to tell about his departure from Sydney, leaving there his wife and children, and coming to California. Unable to find employment, he went to the mines, but there met with little success, scarcely taking out

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gold enough to buy him food. For several months he was prostrate with fever, and but for the attention of kind-hearted comrades would have died. But saddest and strangest of all, he had been persecuted to the verge of insanity by the hounds of the law. Thrice had he been arrested for crimes which he never committed; once he escaped, but twice, at different times and places, he had been tried, convicted, and barely escaped hanging, and yet he was as innocent of crime as any man in California.

It was a good story, too good, indeed, for belief, and had been well told. As usual in such stories, part of it was natural enough, but part of it was of so startling a nature that the wonder was how the prisoner thought any one should be so credulous as to believe it. No, Thomas Burdue was but one of half a dozen aliases of which James Stuart was the real name, so every one believed; and further, he was no other than one of those, the shorter of the two, who assaulted Jansen the evening previous. On Friday, the 21st, while deep in the fascinations of a strap game on Commercial street, another suspected person, named Wildred, who corresponded in appearance to Mr Jansen's description of the tall robber in the cloak, was apprehended and placed in confinement.

Throughout the entire community there was the greatest excitement. Crowds gathered round the building where the prisoners were confined, and threats were made to take them out forthwith and hang them.

There was no question in the minds of any that these were the true offenders. About noon on Saturday they were taken from the station-house by the marshal, and under escort of a strong police force were conducted to the residence of Mr Jansen, who was lying ill of his wounds and unable to attend court. Mr Jansen was sworn, and while his testimony was being taken Wildred was brought in. Jansen recognized him as the taller of the two men; he would not

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swear positively, still he was sure this was he of the cloak and pointed hat. After further testimony was taken Stuart was introduced, and Mr Jansen swore that, to the best of his knowledge and belief, this was the villain who struck him down. When Wildred's cloak and Stuart's hat were on, Jansen said he could not imagine a closer resemblance.

On their way back the prisoners were followed by a mob, who cried: "Hang 'em!" "Lynch 'em!" And once, while crossing the plaza, a rush was made for Stuart, who appeared to be the more obnoxious of the two, from the fact of his having committed the murder at Auburn. The attempt to seize him, however, failed, and the two men were again safely incarcerated.

At two o'clock the same day they were brought before Justice Shepherd for examination. Hall McAllister appeared for the prisoners, and H. H. Byrne for the people. After the reading of Mr Jansen's deposition on behalf of the prosecution the defence was opened. John Wilson swore an *alibi;* swore he was playing cards with Wildred at a gambling-house, corner of Commercial and Montgomery streets, from half-past seven till ten o'clock, and that during that time Wildred had not left the room for a moment. He said he had known Wildred for six months; that he was a respectable person, and a man of family. S. J. Marks also swore that he saw him there.

Scarcely one who heard this evidence believed it true. The court was now adjourned till Monday. At the time of adjournment the room was packed with people, and round the city hall, while the examination had been going on, were gathered more than five thousand men.

Scarcely had the judge announced adjournment when the crowd raised the cry, "Now is the time!" and rushed upon the prisoners. Great was the uproar which followed. Chairs, tables, and railings gave way before the infuriated populace; Stuart was seized

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by one and Wildred by another, but the assailants were beaten off by the sheriff and his assistants. The Washington Guards, whose armory was next door, then rushed to the rescue of the prisoners, and the crowd was driven from the court-room. The prisoners were conveyed to the judge's private room, and the Guards returned to the armory amidst groans, and hisses, and cries of "Shame!" "Shame!" The people were then addressed by several of the most respectable citizens; they were urged not to act rashly, and quiet was at length restored.

As night came on, the numbers about the court-house increased to six or seven thousand. Although there was great excitement, order was maintained, and there was no further attempt at violence. It was not a mob; it was a movement of the people, made not with the object of interfering with justice, but to assist justice. The impromptu meeting was organized, and W. D. M. Howard called to the chair. A committee was appointed to see the prisoners properly guarded during the night, and to report at a meeting to be held on the plaza next day at ten o'clock. The crowd then quietly dispersed.

At the meeting next morning which numbered eight or ten thousand persons, majority and minority reports were read—the first as follows: That they recommend to the citizens of San Francisco to proceed forthwith to appoint a committee of thirteen citizens to act as judge and jury, to proceed to the trial of the suspected criminals at two o'clock that day. The said committee to act in conjunction with the court if the court be willing; if not, to proceed to trial by themselves; they would recommend also that proper counsel be assigned the prisoners, in case they have none already engaged. The minority of the committee, through Samuel Brannan, recommended immediate punishment. "Why should we speak to juries, judges, or mayors?" cried Sam, in angry perspiration. "Have we not had enough of such

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doings the last eighteen months? It is we ourselves who must be mayor, judges, law, and executioners. These men are murderers and thieves; let us hang them!" Meanwhile printed bills had been posted about the streets, which read as follows:

"Citizens of San Francisco! The series of murders and robberies that have been committed in this city, without the least redress from the laws, seem to leave us entirely in a state of anarchy. When thieves are left without control to rob and kill, then doth the honest traveller fear each bush a thief. Law, it appears, is but a nonentity, to be scoffed at; redress can be had for aggression but through the never-failing remedy so admirably laid down in the code of Judge Lynch. Not that we should admire this process for redress, but that it seems to be inevitably necessary. Are we to be robbed and assassinated in our domiciles, and the law to let our aggressors perambulate the streets merely because they have furnished straw bail? If so, let each man be his own executioner. Fie upon your laws! they have no force. All those who would rid our city of its robbers and murderers will assemble on Sunday, at two o'clock, on the plaza."

"We are here without jails," says the *Herald* of February 22d, "without penitentiaries, and without a police sufficiently strong for the circumstances; and conjoined with these deficiencies we have a bankrupt city and an incompetent council. On whom must we depend for relieving the town from the desperate and abandoned scoundrels who now infest it? There is clearly no remedy for the existing evil but in the strong arms and stout souls of the citizens themselves. But in order to be strong we must be organized, for the enemy we have to deal with is well drilled and disciplined. It behooves us, then, to take some steps for concentrated action in order to put a stop to the dark and atrocious crimes committed in our midst. Let us then organize a band of two or three hundred Regulators, composed of such men as have a stake in

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the town, and who are interested in the welfare of the community. The very existence of such a band would terrify evil-doers and drive the criminals from the city. If two or three of these robbers and burglars were caught and treated to lynch law, their fellows would be more careful about future depredations."

After speaking of the custom of the British ministry to resign their position when one of their leading recommendations is defeated in Parliament, which is a sure indication of lack of confidence, and recommending California office-holders to do likewise, the editor of the *Alta California* of Sunday morning goes on to say: "With one consent the people have taken into their own hands the adjudication of law and justice, because they knew no confidence could be placed in our tribunals. And why has the community come to this conclusion? Simply because our courts, instead of being a terror to evil-doers, have proved themselves the protectors of villains, and thus encouragers of crime.

"This is a hard accusation, but it is true. There can be no doubt that in California five hundred murders have been committed. And yet, with enactments defining the crime of murder and affixing the penalty of death for the crime on our statute-books, not one single offence has been punished by these courts. Every murderer who has passed through the mummery of an examination or trial has been let loose upon society again, with the endorsement of the court upon his character that he is not guilty. Thus he has been made current coin of the community, while before he was at best but bogus in public belief, even if suspicion alone rested upon him. Courts have thus gendered crime by nourishing the criminal. It will not do to tell our people that this utter impunity has been the result of causes beyond the court's control. No one will believe it; no one ought to believe it, simply because it is false and the people know it to be false."

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Like many others, Mr William T. Coleman had been attending to business up to Saturday night, and although interested in current events had given them no special attention. Wending his way Sunday morning after breakfast toward the old Graham House, corner of Pacific and Kearny streets, in the basement of which the prisoners were confined, he saw in the faces of the citizens bent in that direction unmistakable evidences of anger, which as he walked became somewhat contagious. Considering the possibility of a rough turn in affairs before the day was over, in which perchance he might participate, the thrifty young merchant returned to his room, laid aside his Sunday suit, and put on plainer apparel. When he reached the scene of action, the mayor from the balcony was urging the people to disperse, and proffering the strongest pledges that proceedings in this trial should be prompt and decisive. Others spoke in the same strain.

It soon became apparent to Mr Coleman that these speeches tended to irritate rather than to allay the excitement. Some laughed at promises; others remained sullenly silent. Many had their small-arms, and from almost every eye shot angry impatience. Though without leadership, without concert of action, the heterogeneous throng seemed possessed of a common purpose. There appeared to be real danger that this sense of burning wrong would break out into excess, that the people would take possession of the building and hang the prisoners.

Coleman hastily revolved the matter in his mind and determined to try a middle course. Next to downright villainy he hated mob violence. He respected the law; even the bloodless skeleton of the law he had ever regarded as preferable to anarchy. Was it not possible to organize a court of the people, *sub colore juris*, if the law would; if not, without the sanction of the law, and so maintain the integrity both of the law and of the people? He would try it.

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Entering the building and making his way to the front balcony, he waited his opportunity, and just as one of the speakers closed an urgent appeal to the people to disperse, go home, and leave everything to the officers, he swung himself well out, and with a wave of the hand cried, "No! We will do no such thing! The people here have no confidence in your promises, and unfortunately they have no confidence in the execution of the law by its officers. This state of affairs has gone too far. Patience has fled. I propose that the people here present form themselves into a court, to be organized within this building immediately; that the prisoners be brought before it; that the testimony be taken, counsel on each side allotted; that the trial be begun by twelve o'clock, and conducted fairly, dispassionately, resolutely; and if the prisoners be found innocent let them be discharged, but if guilty let them be hanged as high as Haman, and that before the sun goes down!"

For an instant there was silence, breathless, almost painful; the street was waiting for the next word; but it was only for an instant. Then burst forth loud and long applause, which brought relief. The clouds cleared from men's faces. The words had been spoken which each wished to speak. In the abrasions of this impetuous society the steel had struck the flint and kindled the spark which should liberate its smothered wrath. From a thousand tongues the shout went up, "Yes; that's it!" "You are right!" "That's the remedy!" Already the great heart of that tumultuous assembly was won; now to the quieting of it. "We don't want a mob!" continued the speaker; "We won't have a mob! Let us organize as becomes men; here; now; as a committee of citizens, and insist on the right. All is ready; the witnesses are at hand; let not justice be further cheated."

The proposal was put to vote, and a unanimous 'ay' was the answer. Every good citizen was then invited to enter the building who could; the rest were

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to stand without and guard affairs with patient quietude. Coleman then entered the inner hall, which was used as a court-room, followed by a crowd. Mounting a chair, he asked them to choose from among their number one who would act as judge, to impanel twelve jurymen, and select counsel for the prosecution and for the defence. He also recommended that those without should organize and surround the building, which was done. J. R. Spence was appointed judge, and C. L. Ross and H. R. Bowie associate justices. Wm. T. Coleman was called on to act for the prosecution, and Hall McAllister, Calhoun Benham, and D. D. Shattuck volunteered their services for the defence. The twelve jurymen were sworn in, and after a short adjournment, about half-past two all were ready and the trial proceeded.

Judge Shepherd entered his official protest against the proceedings, but no attention was paid to him. Coleman opened the case briefly for the people and was followed by McAllister. The latter asked that a *nolle prosequi* should be entered, and remarked that it ill became men to trample underfoot the high dignity and sacred rights of that law the blessings of which they had all their lives enjoyed. Coleman replied that for the Roman code, and for the law as executed in France and England, and for the great lights of the law, he entertained profound respect. But while the world from time immemorial has had its just ordinances and able advocates, unfortunately there have always been parasites, men who are nowadays called pettifoggers, and they with the unworthy agents of law had unhappily brought it too often into contempt, had thwarted its wise and just designs, and thereby hazarded the lives and property of the people. It was not laws, but the criminal breach of them, that he complained of; for the vindication of the law, not for its overthrow, the people were there gathered.

Every exertion was made to calm the passions of

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the multitude, and except occasional outbursts, general good order and quiet prevailed. The prisoners were kept out of court lest their presence should fan the excitement. Witnesses were examined and the case submitted. About nine o'clock the jury retired, and after a long absence returned with the announcement that they could not agree.

It was well that the bleak winds and fatigue had chilled the impetuosity of the morning, and that many had in consequence withdrawn to their homes. Nevertheless there were yet remaining those who for twelve consecutive hours had stood massed against that building waiting to see what this new-fashioned tribunal would do, and whose patience now gave way. "Hang them anyhow!" they shouted when they learned the result. "They deserve it!" But Coleman said, "No! Though I feel the mortification and chagrin no less keenly than you, and though I believe these men guilty, there must be no violence. We have done our duty; we cannot afford to make a mistake; our judgment is not superior to that of others, and we must abide the decision." The jury was discharged, the remainder of the crowd dispersed, the prisoners were left with the county officers, and remanded to jail.

During the Sunday trial W. H. Jones testified that he saw two spots of blood on Stuart's clothes, one on the shoulder and one on the elbow. McGilbert recognized Stuart as an old offender; he had seen him at Sacramento and elsewhere, and knew him to be a great scoundrel. James A. Glen testified that the prisoner was once arrested at Foster Bar for stealing four thousand dollars, and that he narrowly escaped hanging by the people. Mr Jansen was again asked to say whether these were the men who assaulted him, and he answered, more positively than before, that they were; that he was undecided at first, but now he was sure. Many more bore witness on the one side

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and on the other, some affirming that Stuart was a good man, and was somewhere else when Jansen was struck, and others as sure that he was a notoriously bad character, and was at or near the spot at the time.

After the jury had retired to deliberate, a person appeared before the court who wished to testify that Stuart was with him on the night of the assault from seven till eleven o'clock, but it was decided that his evidence should not go to the jury.

George E. Schenck was a member of this jury; and in a lengthy and clearly written dictation upon the subject he tells me of the doubts he entertained; how Jansen was not positive as to the identity of the men, and how the prisoners were not present at the trial, being kept in the marshal's room, on the second floor, under the cots on which the officers slept, and there concealed by blankets hanging over the sides of the cots to the floor. Thence during that same night they were taken elsewhere, for fear of the multitude, and secreted for several days. "Two others coincided with me in regard to it," says Mr Schenck, "and we agreed to bring in a verdict that we could not agree. There were nine for conviction and three who entertained doubts. This was about nine o'clock at night. On our coming into the court-room and announcing this fact, the outside crowd broke in the windows, rushed in at the door, broke up the railing round the bar, and were about to make an attack on the jury, when the jurors drew their revolvers, and rushing back into the jury-room there remained until the excitement had somewhat abated."

There were several impromptu meetings in various parts of the city on this Sunday. On Montgomery street a red-faced, shock-headed judge was holding forth to a knot of listeners, and denouncing in strong terms the lawless proceedings of the day. "Law! law! talk of law!" exclaimed the deriding crowd. "We get heaps of law, but little justice. All that law in California seems to be good for is to empty

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money from the pockets of the people into the pockets of the judges." Then came hootings. "Water lots!" yelled one; "Colton grants!" "Straw bail!" "Boiled eggs for the lawyers and acorns for the people!" shouted others. And when a strong clear voice rang out, "Tar and feather the old fellow!" and the judge saw in the many eyes directed toward him a new and not assuring light, he thought it best for him to go while he could. So he moved along.

As John Wilson, who testified to an *alibi* on behalf of Wildred, was passing down Long Wharf on Sunday, he was recognized by the populace, who raised a cry against him. "There goes one of 'em!" they shouted. "Stop the perjurer!" "Duck him!" "Throw him off the dock!" Frightened half out of his wits, he made good use of the remainder, for clearing the crowd at a bound or two, the fellow ran like a deer up Commercial street to Montgomery street, where turning the corner he darted into a store, slammed the door after him, shot out through the back way, and hid himself under a pile of empty cases, thus eluding his pursuers.

Charles Duane, who was at the time on trial before the recorder for shooting one Amade, was surrendered by his bail and committed to prison. The fact was, Duane could sleep better under the guardianship of the law than when left exposed to the fury of the mob. Whenever the people became excited the prison was the murderer's haven of rest; then the law was his best friend.

The people plumed themselves on their good behavior. Says the *Daily Balance* of Monday morning: "For two days the lives of two human beings, the majesty of the laws, and the peace and character of our city, have hung on the will of an illegal assemblage of the people. Yet, thanks to the good sense, the love of justice, and the habit of self-government which characterize our American community wherever it has not been subjected to the deteriorating influ-

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ences of great cities, they have passed through the crisis unharmed. It is a most consoling and gratifying result, which every lover of his country and of his kind must regard with satisfaction and with thankfulness." "It was one of the most impressive demonstrations of the power and majesty of the people we ever looked upon," says the editor of the *Pacific News*, writing Monday morning. "As yet no murderer has been punished under our laws. Hereafter no criminal can go free except at the risk of anarchy, from which we have escaped only by a forbearance on the part of the people beyond all praise." "In no city in the world, perhaps, save this," wrote the editor of the *California Courier* on Tuesday, the 25th, "could a community be excited and aroused so violently without committing some excesses; yet our people throughout Saturday and Sunday committed no breach of the peace whatever. The feeling and interest manifested arose from an intelligent and deep-seated conviction that these men were two of an organized gang of desperadoes and villains who have been at all hours of the day and night committing outrages upon the lives and property of our citizens. Also because it was believed they would be sworn through the courts by their confederates. Our people, under the circumstances, have shown great forbearance, moderation, and respect for the laws. They have now, however, made up their minds that there shall be no more straw bail taken, and no more false swearing from suborned witnesses to shield and protect the guilty in their outrages."

One of a thousand similar speeches made on the Sunday of the trial is given by the *Evening Picayune* of Monday: "While mingling with the crowd before the City Hall yesterday afternoon, a tall, gaunt individual, with black eyes and an abundance of hair, broke out indignantly after this fashion: 'Cuss me, what a country this here is for regulating things! Where I come from those chaps in thar would have swung long

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ago, and no speechifying and humbugging thought of. Here I was some two or three hours yesterday, and nothin' done. Well, I come here accordin' to appintment at nine o'clock this mornin', to see the thing done all on the square, and here it is nearly sundown and nothin' done yet! Cuss me, I have helped swing nine redskins and three Mexicans in one forenoon, and no damn fuss made about it by any one. Cuss me, but I'm clean sick of this country, where they let cussed red devils and white wolves run over them without so much as slipping the wind of one of them when he's caught! It's a weak country—an unnat'ral place, and fit only for greasers!' As he concluded speaking, his small black eyes glanced contemptuously about him for a moment, when he elbowed his way out of the throng."

Thus the people's tribunal failed to convict these men, and left them to the officers of the law. Wildred, with seven others, broke jail and escaped. Stuart was tried by the district court, found guilty, and sentenced to fourteen years' imprisonment. All the money in his possession was taken from him and given to Jansen.

Before the sentence of the court was executed, however, Stuart was taken to Marysville and there arraigned for the murder of Moore, the sheriff. At this trial the testimony as to Stuart's identity was conflicting. There was no doubt as to Jim Stuart being the murderer of Moore, but while many witnesses for the prosecution positively identified the prisoner by a dozen prominent features, yet there were others who as positively asserted that he was not the man.

I herewith give what one of the attorneys in the case at Marysville says about it:

"Witnesses for the prosecution were generally bold and entirely positive; but the witnesses for the prisoner, with the exception of Judge Stidger and B. F. Washington, appeared to feel uneasy, and often hesitated in their testi-

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mony. Some three or four witnesses testified that they had worked with Jim Stuart at Foster Bar, and had known him well before he went there. They had eaten with him at the same table often, and had played cards with him; and one or two testified they had slept with him. They testified that Jim Stuart was of the same height as the prisoner; that he had curly hair, like him; that he was slightly bald on the top of the head, like him; that his actions were like his—the court having made the prisoner stand up several times so that the witnesses could see him better than when sitting; that his voice and accent were the same, being English; that the color of the eyes and hair were the same; and that Jim Stuart had a stiff middle finger on the right hand, and a ring of Indian-ink round one of his fingers, and marks of Indian-ink between each thumb and forefinger; and further, that Jim Stuart had a rather long scar on his right cheek. The jury then examined the hands of the prisoner, and there was found a ring of Indian-ink on one of his fingers, several figures or spots of the same ink between the thumb and forefinger of each hand; and the right middle finger was not stiff, but had had a felon under the nail of the corresponding finger on the other hand, which had given it a short but stubby appearance, heavier at the end than elsewhere, the nail of the finger being broad and thick, and bending inward over the end of the finger. This was startling to the defence, indeed. It remained now to see if the prisoner had a scar on the right side of the face. His face could not be satisfactorily examined, as it was almost completely covered with a short growth of hair. The court ordered the prisoner to be shaved before being brought into court next morning, and on being examined a scar about the length of the one described by the witnesses was found, commencing on the edge of the jaw on the right side and running down the neck. The witnesses now seemed confident, and said that they had no doubt that the prisoner was Jim Stuart. On a cross-examination they said, in a positive and unhesitating manner, that it was not possible that they could be mistaken in their opinion that the prisoner was Jim Stuart. Colonel Prentiss swore positively that the prisoner was Jim Stuart, and that he could not possibly be mistaken. Some four or five witnesses swore positively as to the identity of the prisoner, and that he was Jim Stuart beyond a question; each giving some one or more new reasons for his belief. No witness on the side of the prosecution would admit a probability that he could be mistaken in the prisoner; that he certainly was Jim Stuart! On the side of the defence, Judge Stidger swore positively that the prisoner at the bar was not Jim Stuart; that there was a strong resemblance between Jim Stuart and this man, but that Jim Stuart was at least two inches taller than the prisoner; that their eyes were different in color; that the expression of the eyes of the two men was different; that Jim Stuart was much quicker in his motions than the prisoner; that Jim Stuart's motions were very uncommon, being as quick as those of a wildcat; that he had always head erect, much more so than the prisoner, and that the real Jim Stuart was straighter in his personal formation, and had a different complexion. This witness testified that Jim Stuart was often arraigned before him as a judge at Foster Bar, and that his recollection of him from this and other facts was clear and distinct. Stidger also testified that Jim Stuart had a stiff middle finger, but not such a one as the prisoner had. B. F. Washington, who was

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at the time recorder of Sacramento City, testified that he knew Jim Stuart from the fact of his being a notorious character in that city, and from the fact that he had often been brought before him on different charges. Mr Washington said that the prisoner at the bar was not Jim Stuart; that there was some resemblance, but they were to his eye quite different men; that Jim Stuart was an inch and a half or two inches taller than the prisoner. Other witnesses for the defence testified to about the same facts, but they seemed to be uneasy, in some trepidation, and acted in a manner most provoking to the defence. One witness on behalf of the prosecution, a Mr Thompson, testified that the prisoner, about the date of the alleged murder, came into a camp on Slate Range, in said county of Yuba, on horseback, and seemed to have plenty of money, and was betting with the boys on a string-game which he played very skilfully. That he had a conversation with the prisoner in the jail, and that the prisoner admitted that he was at Slate Range at the time mentioned, but denied that he was Jim Stuart."

From the report of the trial at Marysville we are informed that when the case was committed to the jury, eight were for conviction and four for acquittal. Finally the jury, after deliberating two days and one night, agreed on a verdict of guilty. While the verdict was being announced the prisoner did not manifest the least trepidation or excitement. An eye-witness says: "I could not notice the least change of a muscle in his face, and I must say that the appearance of his face was far from being that of a hardened villain listening to the fiat deciding his fate, for his countenance was mild, calm, and serene."

When his counsel visited the unfortunate man in his cell two hours afterward, he clenched his hands, and raising them toward heaven reiterated his solemn protestation of innocence. He further said that if he should be offered a million of dollars and his liberty he could not tell where Mr Jansen's store was in San Francisco. He spoke of his narrow escape from hanging at his previous trial; his friends were afraid to stand by him, as their allegiance would subject them to abuse and maltreatment as men of Sydney. Abandoned by his comrades, cursed and hated by those who believed him a criminal, life was no longer endurable, and he was willing to die. His only request was that letters should be written to his poor wife in Sydney

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and his father in England, informing them of his ill-fate and of his innocence.

The following letter, given verbatim, written immediately after his trial at Marysville, and while under condemnation of death, displays more vividly than can any words of mine this strange freak of justice:

MARYSVILLE JAIL, July 4, 1851.

To John Goff—DEAR SIR: I have had a trial which lasted five or six days, and the jury was twenty-four hours in deciding my fate; and had they not had a prejudice against the country I came from it might have turned out different, but as it was they found me guilty, and my sentence is death. The law allows me thirty days before the execution is put into effect. I forgot to say, though I was found guilty, the jury remarked that they had doubts upon their minds; but the judge said that this doubt would assist me very little. I had more evidence in favor than against; in fact I had the judges from Sacramento, who tried this said Stuart several times, also the policeman who took Stuart into custody; they both swore positively that I was not Stuart. And beside these men, I had from fifteen to twenty more who knew Stuart well, and they also swore positively that I was not Stuart; and moreover all of these persons were strangers to me. The evidence here went to show and prove that Stuart was two and a half inches taller than me. The policeman who first took me in charge for Stuart never appeared against me. Had I of had Mrs Strytum, the landlord of the house I kept, and Mrs Morris, and yourself, it might have turned the case in my favor, as this murder was perpetrated on the 7th of December, and you are well aware that I was in San Francisco a long time before and a long time after. I have since been informed that no matter what evidence I have, the prejudice is so great against the people that come from Sydney that had I of had these witnesses I have named it would of been no use. Mrs Eliott was here to prove that I came in the same ship with her from Sydney, and it so happened that there was a witness also here to prove that this same Stuart came in steam-vessel from Panama with him, in same month as I came from Sydney. He also swore to Stuart's height, as being much taller. There was several parties from Foster Bar, who arrested Stuart for a robbery he did there; they also swore I was not Stuart, but all of no use; and one of these persons was the judge who tried Stuart on Foster Bar twice, and worked in the same company. Fletcher and Benson I got subpœnas for, but they could not be found. Henry Davies called upon me, and promised to stay to my trial, but on account of its being put off for a few days he left and I have not seen him since. Understand me, I don't mean to say that I had no evidence against me, because I had many that swore I was Stuart; but most or all of these persons only knew Stuart slightly, where those that swore I was not him, all said they knew him well. I have no more to say at present touching the case. I must now ask you as a very great favor to come up and see me as soon as possible, as I cannot say how soon I may be launched into eternity, innocent. When you come up, please

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bring any letters you may have for me. My dear Sir, when I ask you this favor, I ask you not to delay, as it will be the last time you will be able to see me, and for God's sake, and the respect you have for me, don't fail, as I have a deal to say respecting my poor wife and friends I have left behind.

I can assure you it is very hard to be placed in this position, but at the same time I keep up my spirits as well as I can. I now say again, in the name of God do not neglect me, but if possible come up as soon as you receive this.

Give my respects to all my friends in San Francisco, and receive the same yourself, from

Yours truly, but very unfortunate,

THOS. BURDUE.

P. S.—I have not forgot the day I entered your house after being at the mines for five months working hard, and dirty as miners are, and your boy John, which is only three or four years, should recognize me.

Hear now the sequel, and note the moral. Just before the day arrived on which he was to have been sentenced, it was ascertained that this Stuart was not Stuart at all. He over whom all this temper had been spent was Thomas Burdue, an innocent man! He had never committed murder, had never assaulted Jansen, and every word of the story he had told on his arrest was true!

These facts were ascertained by the men who ere this had formed themselves at San Francisco into a Committee of Vigilance, as we shall presently see, and who rescued the unfortunate man from a felon's death on the eve of execution by the arrest of the true Stuart, to whom Burdue bore a striking resemblance. His likeness in form and feature to a villain was to him a Nessus shirt of misfortune.

Says the attorney before quoted, on seeing the real Stuart subsequently at the rooms of the San Francisco Vigilance Committee: "If ever I saw a stronger resemblance between two men in my life, I do not recollect it. But I soon noticed the distinctive differences, so minutely described in the testimony of Stidger and Washington. The real Jim Stuart who stood before me was at least two inches higher than the prisoner in Yuba county. The middle finger was the same as has been stated by witnesses, quite stiff, and his hands

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much longer and more aristocratically shaped than the hands of the other. His actions were exactly those that Stidger had described, and at the least motion of any one present, his eyes, head, or body would move with the rapidity of lightning!"

Imagine the feelings of this man under his strange and varied experiences; lying incarcerated through months of long nights and wearisome days, pondering on the present and wondering what would come next; sitting in the prisoners' dock listening to those who, one after another, came forward and fastened on him crimes from the bare mention of which his soul shrank, until he began to question his own sanity and identity. Now he lay chained in a dungeon; now, under the grim shadow of justice, surrounded by eyes staring curses on him, he listened to evidence and arguments no more applicable to him than to the judge himself; and now he found himself the centre of an infuriated populace, eager to shoot, hang, or with their fingers to tear him in pieces, when, if they but knew the simple truth, they would sooner point their weapons against their own breast. The jaundiced eye sees all things yellow. While the prisoner was on trial, and strong evidence was brought against him, the people saw guilt stamped on his face; when he was proved innocent, the face shone in open honesty.

Immediately the Committee of Vigilance had found the true James Stuart, and had rescued from the jaws of death the man who been taken for him, Thomas Burdue was brought to San Francisco, and the amplest amends possible were made him. He was pardoned by the governor for crimes which he had never committed. Mr Jansen not only refunded the money taken from him, but supplemented it by a liberal addition. A public subscription was started, which resulted in substantial aid. Thus Thomas Burdue became a hero, and was lifted up—but not so high as the scaffold.

Before the legislature of 1853 a memorial was presented on behalf of Thomas Burdue, asking for four

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thousand dollars, in view of the suffering and ignominies of a nine months' unjust imprisonment. Besides contracting disease and undergoing the horrors of the death sentence for another's crime, his entire means and all he could borrow from his friends, amounting to nearly the sum asked, had been expended in procuring necessary counsel and witnesses, in consequence of which his wife and children were reduced to beggary. The memorial was referred to the judiciary committee, of which J. W. Ralston was chairman. The following lucid and logical reply was made: "To grant the prayer of the petitioner would establish a precedent which, if carried out in all cases of the kind, would more than exhaust the entire revenue of the state. We know of no legislative precedent for such appropriation. The most that has been done was to refund fines illegally collected from innocent parties, leaving them responsible for their own expenses. In society it too often happens that the innocent are wrongfully accused of crime. This is their misfortune, and government has no power to relieve them. It is a part of the price each individual may be called on to pay for the protection which the laws give. He should rejoice that the laws have afforded that protection to him when wrongfully accused, rather than seek remuneration for his expenses from the government whose justice has protected him from ignominious death." That is to say, stripped of verbiage, To correct the errors of law would cost more than all the expenses of government combined. We have never known a legislature to right a wrong done by the law to a citizen, therefore we will not. Prosecution may be the price of protection; and fortunate is he who is not done to death by laws established to save his life!

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CHAPTER XIII.

ORGANIZATION OF THE SAN FRANCISCO COMMITTEE OF VIGILANCE OF 1851.

> The gods
> Grow angry with your patience; 'tis their care,
> And must be yours, that guilty men escape not:
> As crimes do grow, justice should rouse itself.
>
> *Ben Jonson.*

CRIME was emboldened rather than intimidated by recent affairs. While the Burdue trial was in progress, the drug-store of Bache and Grotjan, corner of Washington street and Portsmouth Square, was entered and robbed; a murder was committed at El Rincon; on Prospect Hill a woman was robbed of five hundred dollars and two gold chains. Two men making their round of pillage were caught with articles taken from the stores of Kettell, Mahony, and Company, and Middleton and Hood; one of them was severely punished by the people and the other escaped. At the time and thereafter, both in the city and country, slung-shots, knives, and pistols were employed more liberally than ever.

Rascality assumed the heroic. Aside from the seductive charm of illicit gain was it not a grand thing to be the central figure of such an assemblage as that of the before-mentioned Sunday in February? For less than this men toil in their life-long wearisome ascent, demagogues weave their web of state-craft, and soldiers fight their battles. When men are so eager by hook or crook to attract the notice of the world, may not the chivalrous and accomplished villain achieve renown after his own fashion?

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After all, the difference between war-butcheries and highway-butcheries is more ideal than real. War is the standing irony of humane justice. Poets call this bloody display of passion lovelier than love, wiser than wisdom, holier than religion. So burns in their heart the fire of patriotism that for opinion's sake they lay their country in ashes, and for the love of truth resort to killing. What is truth? May men kill for pride and vain-glory and not for bread? To fight for opinion and call it fighting for truth; to war against infallibility while claiming to be infallible; strange infatuation! As though immutable truth, which is as firm as the Creator's throne, should need the puny efforts of man to establish it, and that the killing of one another should so establish it! Verily there have been in the fermentations of peoples more anomalous absurdities, more reasonless killings, than would be the achievements of villainy for fame!

Happily for individuals society puts the veto on private slaughter; happy will it be for mankind when nations eschew killing; happy will it be for morals when no longer single murders alone are infamous, and only wholesale slaughter honorable. Here in California at this time was work enough to do at all events, and that in the direction pointed out by conscience fashioned by custom. Hundreds of murderers walked from their victims unmolested, escaped to new killing. What then? Shall these go unpunished? Does not the bird Hameh, formed in Arabian mythology from the brain-blood of the slaughtered victim, cry Iskoone! give me to drink vengeance! and so pursue the guilty to the end of his career?

Following the excitement attending the Jansen outrage, as I have said, matters became rapidly worse and worse. Nothing so stimulates wrong-doing as attempting punishment and failing. In the war of good against evil defeat is fatal. One villainous success draws into its trail a hundred new recruits. For

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a year previous to midsummer, 1851, again and again the public press called on the people to unite and hang the criminals. Round the sand-hills and in the hollows, as from the circling hell of Dante, there seemed to rise a silent wail of woe. The stench of natures maledict, as from the tomb of misfortune, floated over the sand-waste and filled to suffocation the nostrils of plodding virtue.

Robberies and rascalities of every kind were of daily occurrence; quiet citizens were knocked down in going to and from their business, and it was unsafe for one to trust one's self out after dark without a cocked pistol in the hand. The criminal catalogue of a week's or a month's duration would be startling. On the 3d of June occurred the Benjamin Lewis affair before mentioned. Twice his indictment by the grand jury was quashed by Judge Parsons on some technical ground, and the prisoner held for another future spasm of justice. The same night a jewelry store on Clay street was feloniously entered; also the shop of Mr Robbins, on Broadway, near Powell street. The building on the south-west corner of Kearny and California streets was fired the 5th, but the flames were extinguished before spreading. Sunday night, the 8th of June, the California-street wharf was fired. At the Blue Devil saloon on Jackson street there was a beautiful stabbing affray the 9th. The same night the house of the Reverend Prevaux was entered. Unhallowed meanness! Twenty culprits on an average now graced the recorder's levee every morning. The 12th of June Charles Hudson was knocked down and robbed of five hundred and twenty dollars in Cab alley. Saturday, the 14th, one Whitzer was stabbed by Albert C. Burney at a dance-house on Pacific street, near Dupont. Next day, Sunday, the cry of murder was raised on Virginia street, and Mr and Mrs Yates were taken in charge in consequence. At a place then rejoicing in the strongly suggestive name of Hog Valley a man was knocked senseless

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and robbed on the 17th. A fire, the supposed work of an incendiary, was discovered on the 18th under a building in the rear of Jones' Hotel.

The 22d of June occurred the seventh great conflagration, involving the loss of six lives and about two millions of property. Nearly one fourth of the city was laid in ashes. After careful investigation the people were satisfied that it was the work of an incendiary. The fire originated in the dwelling of Mr Delessert. At the time there was neither fire nor servant in the house. The people were out in full force, fighting the flames and guarding property. While the flames were raging, the burglary of a jewelry store on Merchant street was attempted. That same evening N. L. Pollock was shot dead by Samuel Gallagher. A Mexican named Juan, caught stealing at this fire, was tried and publicly whipped by the people.

A *nolle prosequi* was entered by the court of sessions the 26th of June in the case of Charles Duane, the prosecuting attorney stating that the witnesses for the prosecution could not be found. It was a current practice among the fraternity, that of continuing a case until the witnesses were scattered. Two individuals, Graham and Lemon, at a loss to know whether, even in their own estimation, they were gentlemen, indulged in some general shooting on Kearny street, near the plaza, on the evening of the 30th. Unfortunately neither was killed, though the bodies of the by-standers entertained a number of their bullets.

These are scarcely a moiety of the offences committed during the month of June; include the petty crimes and misdemeanors, and the list would be increased tenfold.

Before the month opened, it was clearly apparent that the time was fast approaching when the indignation of the people must burst its fetters; the enemies of peace and honest living had filled their cup of in-

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iquity to overflowing. Patience had become puerility. The question was no longer whether it was right for the people to take law into their own hands and execute justice, but whether the virtuous and orderly element in the community should have any existence at all. Over and over again the legal machinery then in operation was proved utterly inadequate to the suppression of crime; wickedness grew bolder and more rampant every day, until the simple proposition was, Shall the substance of the right-minded and industrious be forever taken to feed villainy? Then it was that a secret committee of men determined to put on armor and stand ready, the self-constituted exponents and executives of order and of law, sprung as it were from the ground.

The idea of organizing did not originate wholly with any one man or at any one time. As in every normal evolution, the development was the offspring of necessity. A thousand minds were pregnant with the thought that something must be done. Citizens talked together of it, and every new outrage added force to expression. The great law of self-protection, far mightier than written law, of its own subtle strength attracted and massed the isolated particles of society. Although it was a clear case of spontaneous combustion, there was yet an immediate agent. In a thousand places the flame of reform was ready to burst out; the first bursting was the beginning.

There had been organized late in February or early in March, among the merchants, a night patrol, of which F. W. Macondray was captain. Every man who had property to protect was invited to join the company, and contribute his proportion of time and money for the benefit of all. There were about one hundred members, who were assigned to different districts, and twelve of them were on duty four times a month, serving eight hours out of the twenty-four. Often during their meetings they discussed the necessity of organizing as a popular tribunal and as-

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suming arbitrary powers. It was a consummation, however, to be deplored, and therefore to be postponed as long as possible. Of the band was George E. Schenck, who claims this as the origin of the Vigilance Committee; others, however, put in counter claims. The truth is, as I have said, this organizing for mutual safety was the act of many, who thus as it were threw up their arms involuntarily to ward off the blow aimed at society by confederated crime.

In what was then known as Happy Valley, where now is First street, near Mission, in the spring of 1851 lived James Neall, a highly respected citizen and prominent merchant. George Oakes, of the firm of Endicott, Green, and Oakes, was his neighbor. Meeting on Sunday afternoon, the 8th of June, their conversation turned on what was uppermost in the minds of both—the insecurity of affairs, and the necessity of active measures. Calm, clear-headed, practical men, both of them, they determined at once and together to call on Mr Brannan, the ruling spirit and tacitly acknowledged leader of the movement of 1851, and consult with him on the subject. They found Mr Brannan seated in his office, and near him at the desk Mr Wardwell, his clerk. Mr Brannan listened as one to whom such words were welcome. As the fire licks lovingly new fuel, so the flame already blazing in his breast received the sentiments poured into it by his visitors. After short discussion it was suggested that each then present should give Mr Wardwell the names of such citizens as were known to be in sympathy with good order, and whose discretion could be relied upon, inviting them to meet at twelve o'clock at noon the next day, Monday, the 9th, at the California Engine House, situated at the junction of Market and Bush streets, opposite the Oriental Hotel. Certain persons in the several districts of the city were requested to organize each a

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local committee, of which he should act as chairman, and the duty of these committees should be to notify their trustworthy neighbors, and invite them to be present at the time and place above mentioned.

In pursuance of that action there was a large gathering at the engine-house the following noon, and the room was crowded. The evils of the times were discussed, and views interchanged as to the proper remedy. The meeting finally adjourned to assemble that night at Mr Brannan's rooms, for the purpose of organizing and defining a course of action.

Unaware of the steps which had thus far been taken, Mr A. Delano wrote two notices in the afternoon of Tuesday, the 10th, calling a meeting to be held next day at three o'clock on the plaza, and handed them in at the offices of the *Alta California* and *Courier*. He then drew up articles of association, which he called a 'Committee of Safety;' but learning from Mr Brannan Wednesday morning that an organization had already been effected, he saw that the articles which he had prepared were not needed.

Singularly contradictory were many of the statements given me by the actors themselves. I have been told repeatedly by those who joined the association on the 10th or the 11th of June that the Jenkins robbery, hereafter to be mentioned, was the act which called the organization into being, when in fact the origin of associating dated from the Sunday previous, and sprang immediately from the common conversation and resolution of the two citizens of Happy Valley. Thick black clouds, portentous of outbreak, had hung for weeks and months over the city; but the walk of Neall and Oakes to Brannan's office was the first white streak indicative of immediate atmospheric purification.

The origin of the term *vigilance committee* was

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spontaneous. In the meeting of Monday night the question arose how the organization should be designated. One suggested that they should call themselves the 'Regulators,' from their determination to scrutinize and regulate the administration of justice, and so diminish crime. But the word Regulators smacked too strongly of the Hounds epoch; it was too significant of a purpose and policy directly at variance with those of the new organization, and hence was not seriously entertained. 'Secret Committee' did not suit for obvious reasons. Next was proposed 'Committee of Safety,' or 'Committee of Public Safety,' as conveying the idea of protection which the association sought to throw round every good citizen. This name found more supporters. But meanwhile the term 'Committee of Vigilance' having been suggested, it took precedence at once, embodying as it does the sentiment of watchfulness with those of circumspection, care, and protection. Hence this name was unanimously adopted, and as the expression of a unique human association shall so stand to the end of time.

At the meeting of Monday night there were present those who fully realized the responsibility and importance of the step about to be taken. Their seeming duty lay seemingly counter to the regular course of law. Plainly, they proposed to break the law, and in so doing lay themselves open to punishment by the law. In the eyes of the law they were about to become offenders of as deep a dye as any they proposed to punish, though from very different motives.

But there were also present young and inexperienced men, who did not know what they were about to do; and sage tutor to these was the whilom colonel commanding the New York volunteers, which company, as before stated, when disbanded furnished many of the ruffians then infesting the city. These mettlesome innocents the mettlesome old colonel set

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about to instruct. It suited well the eternal fitness of things, that he who had brought hither New York's vagabonds should now hang them. Feelingly he spoke of his former associates, calling to mind past dangers and privations in common shared; but recalled to things present, stern duty swelled the breast well buttoned beneath an army coat, and the severest of military airs wreathed the features of the ire-illuminated face.

There were those both at this and at subsequent meetings who were more ready with their tongue than with their sword. Upon this occasion the doughty colonel concludes an address brimful of nervous energy with these words: "And mind you, let there be no skulking! Let there be no skulking now!" But when the bell summoned to actual danger and responsibility, and the more timid looked for their brave commander, he was nowhere to be found; though there was made diligent search, even to the sending to his house for him, he failed to put in an appearance. Then certain profane youth, filled with merry contempt, took from a white fowl its whitest feather, and carefully inclosing it in an envelope, addressed and sent it to the brave talker.

Very different was the conduct on this occasion of Mr Brannan, to whom the highest praise is due. Peculiar as he was in some respects, I cannot but regard his connection with the first Vigilance Committee as the brightest epoch of his eventful life; and so long as society holds its course in San Francisco his name should be held in honored and grateful remembrance. With the most cheerful recklessness he threw his life and wealth into the scale; anything and everything he possessed was at the disposal of the committee free of any charge.

The avowed object of the association was to vigilantly watch and pursue the outlaws that infested the city, and bring them to justice, through the regularly constituted courts, if that could be; by a more sum-

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mary and direct process, if must be. Each member pledged his sacred honor, his fortune, and his life, for the protection of his fellow-members, for the protection of the lives and property of the citizens of the community, and for purging the city of bad characters who were making themselves odious in it.

An informal instrument was drawn up at this meeting, which signified the general purpose and course of action. This was signed by those present. Inviolable secrecy was laid on every member; unity and good faith, becoming common interests and manly honor, should characterize all their acts. Every member should act the part of city monitor; in case of disturbance members of the society should be summoned, and each subscriber promised to appear when called, and to perform service when needed.

A partial organization only was effected on Monday, but next night arrangements were perfected and future action determined. Then and there they resolved to purge the city of crime at the hazard of their lives and fortunes. Watches must be set, patrols established, and scouts sent out; evil-doers were to be hunted, and when caught, tried, fairly, conscientiously, deliberately, and if guilty punished immediately. This was the simple plan, the code of common-sense, established by these men of practical determination. There was to be no friction of unnecessary agencies in their machinery; they knew when a vagabond deserved banishment or hanging, and they knew how to banish and hang; and this was enough.

The protocol of the constitution is dated the 8th of June, at which time it was instituted and put into general effect. In the book of signers it is dated the 9th of June, at which time it was finally adopted and signed. To the constitution S. E. Woodworth is the first signature; S. Brannan, the second; E. Gorham, the third; Fred'k A. Woodworth, the fourth; Geo. J. Oakes, the fifth; and so on.

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Following are the constitution and by-laws as adopted:

CONSTITUTION, 9TH JUNE, 1851.

"WHEREAS, It has become apparent to the citizens of San Francisco that there is no security for life and property, either under the regulations of society as it at present exists, or under the laws as now administered; therefore, the citizens whose names are hereunto attached do unite themselves into an association for the maintenance of the peace and good order of society, and the preservation of the lives and property of the citizens of San Francisco, and do bind ourselves, each unto the other, to do and perform every lawful act for the maintenance of law and order, and to sustain the laws when faithfully and properly administered; but we are determined that no thief, burglar, incendiary, or assassin shall escape punishment, either by the quibbles of the law, the insecurity of prisons, the carelessness or corruption of the police, or a laxity of those who pretend to administer justice. And to secure the objects of this association we do hereby agree: First, That the name and style of the association shall be the Committee of Vigilance, for the protection of the citizens and residents of the city of San Francisco. Secondly, That there shall be a room selected for the meetings and deliberations of the committee, at which there shall be some one or more members of the committee, appointed for that purpose, in constant attendance, at all hours of the day and night, to receive the report of any member of the association, or of any other person or persons whatsoever, of any act of violence done to the person or property of any citizen of San Francisco; and if, in the judgment of the member or members of the committee present, it be such an act as justifies the interference of this committee, either in aiding in the execution of the laws or the prompt and summary punishment of the offender, the committee shall be at once assembled for the purpose of taking such action as a majority of the committee when assembled shall determine upon. Thirdly, That it shall be the duty of any member or members of the committee on duty at the committee room, whenever a general assemblage of the committee is deemed necessary, to cause a call to be made by two strokes upon a bell, which shall be repeated with a pause of one minute between each alarm; the alarm to be struck until ordered stopped. Fourthly, That when the committee have assembled for action the decision of a majority present shall be binding upon the whole committee; and that those members of the committee whose names are hereunto attached do pledge their honor, and hereby bind themselves, to defend and sustain each other in carrying out the determined action of this committee, at the hazard of their lives and their fortunes. Fifthly, That there shall be chosen monthly a president, secretary, and treasurer; and it shall be the duty of the secretary to detail the members required to be in daily attendance at the committee room. A sergeant-at-arms shall be appointed, whose duty it shall be to notify such members of their detail for duty. The sergeant-at-arms shall reside at and be in constant attendance at the committee room. There shall be a standing committee of finance and qualification, consisting of five each, and no person shall be admitted a member of this association unless

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he be a respectable citizen, and approved of by the committee on qualification before admission."

BY-LAWS.

"WHEREAS, The citizens of San Francisco, convinced that there exists within these limits a band of robbers and incendiaries, who have several times burned and attempted to burn their city, who nightly attack their persons and break into their buildings, destroy their quiet, jeopardize their lives and property, and generally disturb the natural order of society; and whereas, many of those taken by the police have succeeded in escaping from their prisons by carelessness, by connivance, or from want of proper means or force to secure their safe confinement; therefore, be it

"*Resolved*, That the citizens of this place be made aware that the Committee of Vigilance will be ever ready to receive information as to the whereabouts of any disorderly or suspicious person, or persons, as well as the persons themselves, when suspected of crime. That as it is the conviction of a large portion of our citizens that there exists in this city a nucleus of convicts and disorderly persons, round which cluster those who have so seriously disturbed the peace and affected the best interests of our city, such as are known to the police of the city, or to members of the Committee of Vigilance, as felons, by conduct or association, be notified to leave this port within five days from this date; and at the expiration of which time they shall be compelled to depart, if they have not done so voluntarily within the time specified.

"*Resolved*, That a safety committee of thirty persons be appointed, whose sacred duty it shall be to visit every vessel arriving with notorious or suspicious characters on board; and unless they can present to said committee evidence of good character and honesty, they shall be re-shipped to the places from whence they came, and not to be permitted to pollute our soil.

"*Resolved*, That all good citizens be invited to join and assist the Committee of Vigilance in carrying out the above measures, so necessary for the perfect restoration of the peace, safety, and good order of our community."

Signed to this were about two hundred names. The documents were then given to the public journals for publication, with the following remarks by the committee:

"The above, a portion of the Committee of Vigilance lately established in the city for the preservation of order, punishment of vice, and for the purpose of meting out that justice so long withheld from criminals, unwilling that the names of a few of their associates should be selected by the Coroner's Jury as the principal actors in the trial and execution of Jenkins, inform the public that they with all the members of the committee are equally responsible for the first act of justice that has been dealt to a criminal in San Francisco since California became a state of our Union. Our fellow-citizens, remembering the escape of Withers, Daniels, and Adams, of Stuart, Wildred, and Watkins, and the tardy manner in which the incendiary Lewis is being brought to justice, will see the necessity of the stringent measures we have adopted."

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This publication also informed those friendly to the cause that the Committee of Vigilance had nothing secret in their proceedings but such matters as would tend to defeat the object for which they were associated. After arranging for concert of action, the absence of which had been so severely felt during the Burdue-Stuart affair; after establishing a watchword and a signal to be used to call members to the rendezvous, which was three taps—it had been two taps before—on the California Fire Company's bell, and detailing officers for immediate duty, enrolling a number of members, all among the most respectable and well known citizens, and after disposing of other needed business, the committee adjourned for the evening. I say they adjourned, but they did not disperse. The first great tragedy was to be enacted that night. Before these associates should sleep, their promises must be sealed in blood.

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CHAPTER XIV.

BEHIND THE SCENES.

So do the winds and thunder cleanse the air,
So working bees settle and purge the wine;
So lopp'd and prunèd trees do flourish fair,
So doth the fire the drossy gold refine.

Spenser.

THROUGHOUT my examination of the subject of popular tribunals it has been my constant purpose to bring to light as much as possible the inner workings of the San Francisco Committee of Vigilance, as that organization must ever be the grand and central figure in all such study. All that has hitherto been made public, all that has hitherto been known of it, is what was outwardly visible at the time. The institution was known only by its results. It was publicly apparent that such an association existed, and the watchful observer could easily ascertain where its members met. The people at large could see when an arrest was made; in the event of exile or execution they could see offenders shipped hence or hanged. But this was all. Of what was done within the walls; of the organization as such, its color, calibre, sentiment, purpose, and secret action, they knew absolutely nothing. Among the members themselves, the right hand knew not what the left hand did. Members of the general committee knew as little about the deliberations and actions of the executive committee as those who were not members of the Vigilance Committee at all.

The history of the movement, I clearly apprehended, could not be fully written without careful

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inquiry into what was, of all things connected with it, the most closely guarded. For a long time I was peremptorily refused admission behind the scenes; for years the only answers I received to my constant importunities, to my arguments as to what I conceived to be their duty, their obligations to the world, in the matter were these: We do not wish to revive the past, melancholy as it is with dismal memories. We have no ambition to figure in history. In our action we only followed what we conceived to be our duty; our conscience to-day approves; under like circumstances we should do the same; but there are those whose opinions are worthy of as much consideration as ours who differ with us, and we do not care to discuss the question. Action was our logic, and the fruit of our deeds the end of the argument. We will not, we dare not say more.

Nor was this an unnecessary precaution. In fact, if not so morally, these associates were legally outlaws. In the eyes of their government they were conspirators and murderers, and they could not be officially regarded as anything else. By these acts which they deemed necessary and righteous they laid themselves open to prosecution, which might result in fines, imprisonment, or even death. Should the law decline to act against public sentiment, should it refuse to exercise in its strict letter its power against its loyalist lovers, and visit with punishment the best citizens of the commonwealth, there were yet at large thwarted villains enough in whom burned so strong a desire for vengeance as to make assassination probable. Hence it became the vigilants to be wary and silent; hence, likewise, it was necessary that at all hazards they should stand by each other.

But better counsel in due time prevailed, and once the barrier broken, every recess was thrown open to me without reserve. Not only was all existing written and printed material placed at my disposal, but the fountains of memory fairly opened, a stream of

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bright recollection flowed forth such as gladdened my thirsty pen. Supplementing their copious dictations with long and frequent interviews as my work progressed, I am enabled to present what I cannot but regard as an important and wholly individual phenomenon in the history of the race, as distinctly and minutely as the most exact student of social development could desire. And here let me remark that the deeper I sounded the subject the more I became fascinated with it, and the clearer appeared to me the purity of purpose, the wisdom of counsel, and the masterly activity in execution, of those whose deeds I chronicle.

It was on the north-east corner of Bush and Sansome streets that Mr Brannan had his office. There in June, 1851, stood a row of two-story frame houses, in the corner one of which the order-loving citizens of San Francisco organized their first Committee, formed for the purpose of taking such measures as should be deemed necessary to secure safety to person and property. The lot directly opposite on the same side of Sansome street was vacant and ungraded, and huge hillocks of undisturbed sand rolled off toward the south-west.

The entrance to the committee rooms was on Bush street. The low ceiling and sides of the rooms were lined with white cotton cloth, made dingy by dust, wet by such portions of the previous winter's rain as could find its way through the cracks. To the feloniously afflicted a visit to the rooms was as terrifying an adventure as a visit to the cave of Trophonius. Mr Brannan's office was up a narrow flight of steep stairs, in a little room partitioned from the loft at the Bush-street end. His business was extensive; in the city he held much real estate, and in the country he was proprietor of farms and mines. It was in this little office that Neall and Oakes found him on the Sunday afternoon named, for business men in those days

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did not usually close their offices on the Sabbath. On the floor below were three rooms, intended for stores, each fronting about twenty feet on Bush street, and running back to a depth of some fifty feet. The rooms were at that time vacant, being for rent. When the gathering of the citizens on Monday night had filled to overflowing the middle room, Mr Brannan took a knife, and cutting the canvas at the sides and bottom, between portions of the studding, opened passage-ways to the rooms on either side. The apertures thus made were curtained by the still hanging canvas.

There was little that was attractive about the place, and it offered few inducements to loungers. These rough rooms, wherefrom renovation should proceed to cleanse the city of its foulness, contrasted strangely with the mirrored and bedizened walls of infamy. The gambler offered you brighter lights and softer seats, but his smile was the leering, jeering, sneering smile of Mephistopheles.

Round a plain table were a few chairs, on which were seated the more active workers of the assembly, the secretary, president, and those engaged in preparing articles of association and plans for future procedure; the rest stood in groups, leaned against the walls, or seated themselves on boxes and boards brought in through the back door. Little cared they for rest or comfort, they who purposed neither rest nor comfort for certain others. During some of these intense excitements hundreds would remain on their feet with no thought of food from morning till night, seemingly without knowing it, so lost were they in their surroundings.

There was little to say in explanation why they had been called together, either at the meeting of Monday noon or Monday night. All knew the purpose of the convention, and it remained only to discuss the best method of accomplishing it. That which was most essential was absolute secrecy, and

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this was first of all enjoined. Should courts, officers, and criminals, through the treachery of any, be made aware of their intentions, the best laid schemes were sure to be thwarted. To secure at once secrecy, concert of action, and efficiency, it was thought best to resolve the working material of the association into active and passive parts, the former to comprise the Executive Committee, who should rule, and the latter the General Committee, who should obey.

And it was done. The executive committee thus became in reality the Vigilance Committee, and the general committee auxiliary to it. Of the vigilant forces the executive committee were the general and his officers, or the president and his cabinet, and the general committee the common soldiers. As a check upon the abuse or misrepresentation of power, it was made the duty of the executive committee, before ultimate action on important questions, to lay their propositions before the general committee and obtain the sanction of its members; but from the executive committee must issue all orders, and they alone were to be held responsible.

Monday night the protocols of constitution and by-laws were drawn, and Tuesday night they were adopted. Officers were chosen and sub-committees appointed; and as the association met from day to day, new necessities brought forth new rules. This the records of the meetings will more clearly show, and to them I now refer.

Selim E. Woodworth was the first president of the general committee, and Samuel Brannan the first president of the executive committee. Brannan's term of office expired in three months; then Stephen Payran was made president of the executive committee, and after him Gerritt W. Ryckman. Money was freely circulated in those days, and at times when enthusiasm ran high ten thousand dollars if necessary could be raised for a popular measure in an hour.

The archives of the executive committee of 1851,

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which were kindly placed at my disposal by Mr Isaac Bluxome junior, secretary of the committees both of 1851 and 1856, consist of books of record and bundles of loose documents. The first book of the committee was that of the signers of the constitution. It is a cap half-bound record, and the constitution occupies the first two pages. On the margin of the second page are the words: President, S. E. Woodworth; Treasurer, Eug. Delessert; Secretary, Is. Bluxome; and in another handwriting, Constitution adopted June 9, 1851. Following the constitution are seven hundred and sixteen signers, their names, places of business, and residence. A separate book was kept by the qualification committee, in which were entered the names of those applying for membership, and by whom recommended. If approved, such approval is noted and signed by the qualification committee. A long narrow index-book was used for the purpose of noting delinquents, and from this fines were reckoned. As a rule members paid their fines cheerfully and promptly.

The signers of the constitution were numbered as the names were written, and each was called by his number. Admission of members to the meeting was much the same as at a freemason's lodge; the applicant, if unknown by sight to the door-keeper, called his name and number, and was identified by the sergeant-at-arms. At times when extraordinary caution was necessary a password was used. Then there is the cash-book, kept by Eugene Delessert, treasurer, in account with the Committee of Vigilance, and continued by George Ward. Among the chief items of expense were $192 the 14th of July for boat hire; passage, A. Wright, 19th of July, $100; trip to Sacramento and expenses there in the arrest of B. Kay, same date, $134. Other expenses in July, use of steam-tug and boats, $100; rent, $400; expenses of Rider, Reynolds, and McDuffie, $196.50; carriage hire, $16; A. J. McDuffie, sergeant-at-arms, services

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rendered, $150; and divers amounts paid newspapers, and for lumber, carpenter work, furniture, stationery, and other supplies. In July was also paid the passage money of George Hopkins, $100; travelling expenses of H. Miller, $100; McDuffie's services, $234.44. On the 11th of August was paid the sheriff's passage by the steamer *Ohio*, $135; the 11th of September, $50 was paid for carriage hire, and on the 13th, $225 passage money for prisoners. Notwithstanding the grave matters before them, creature comforts were not wholly neglected, as among other items I find paid the Oriental Hotel $200, and the club-house, for gin, brandy, and cigars, $58. Boat hire constituted a large item of expense. None of the members of the executive committee drew salaries except the secretary. Drinks are entered in the expenses of agents and detectives in common with steam-boat fare or any other outlay.

The revenue of the committee was derived chiefly from the five-dollar subscriptions of members, and donations from merchants and others. During the month of June, a bank account was kept with James King of Wm., with whom was deposited $1,670.97. The account continues only through the month of June, and the bank-book is not balanced. This account is kept with J. W. Salmon, treasurer. Mr Salmon was the first treasurer and Eugene Delessert the second. Salmon's account, dated the 7th of July, shows receipts according to the above amount deposited, all of which was paid out for rent, carpenters, water, police, sergeant-at-arms' salary, etc., except $112.48, which Mr Salmon handed his successor, Mr Delessert. C. H. Miller presents a claim the 22d of July, "for cash expended by him in going to and returning from Sacramento City three times for the purpose of arresting Jimmy-from-Town, Dab Ainsworth, and George Adams, $100," which was allowed and paid.

Eugene Delessert opens his cash-book the 1st of

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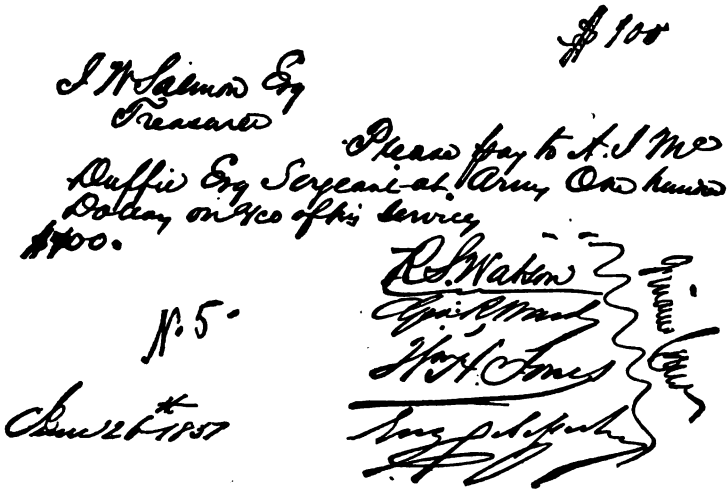
July, 1851, with the amount received from his predecessor. During his term, which lasted until May, 1852, the receipts were $7,791.80, at which time there was due him from the association $220.38. George R. Ward then assumed the office of treasurer, and up to October 7, 1852, the date of the last entry, the book shows receipts to the amount of $330.76.

Herewith I give *fac-similes* of money-orders:



The roll-call of the executive committee forms a separate book of fifty-one names in all, though some from time to time were erased. This roll begins with the 24th of September, 1851, and continues, with intervals of about a week between each call, to the 29th of April, 1852. Every member was required to pay to the treasurer the sum of five dollars on joining. At a meeting of the executive committee, held the 22d of October, it was ordered that a safe should be purchased, in which the secretary should keep the books and papers of the association.

The Committee of 1851 was not as complex in its mechanism as the Committee of 1856. The former had no military organization like that of the latter,

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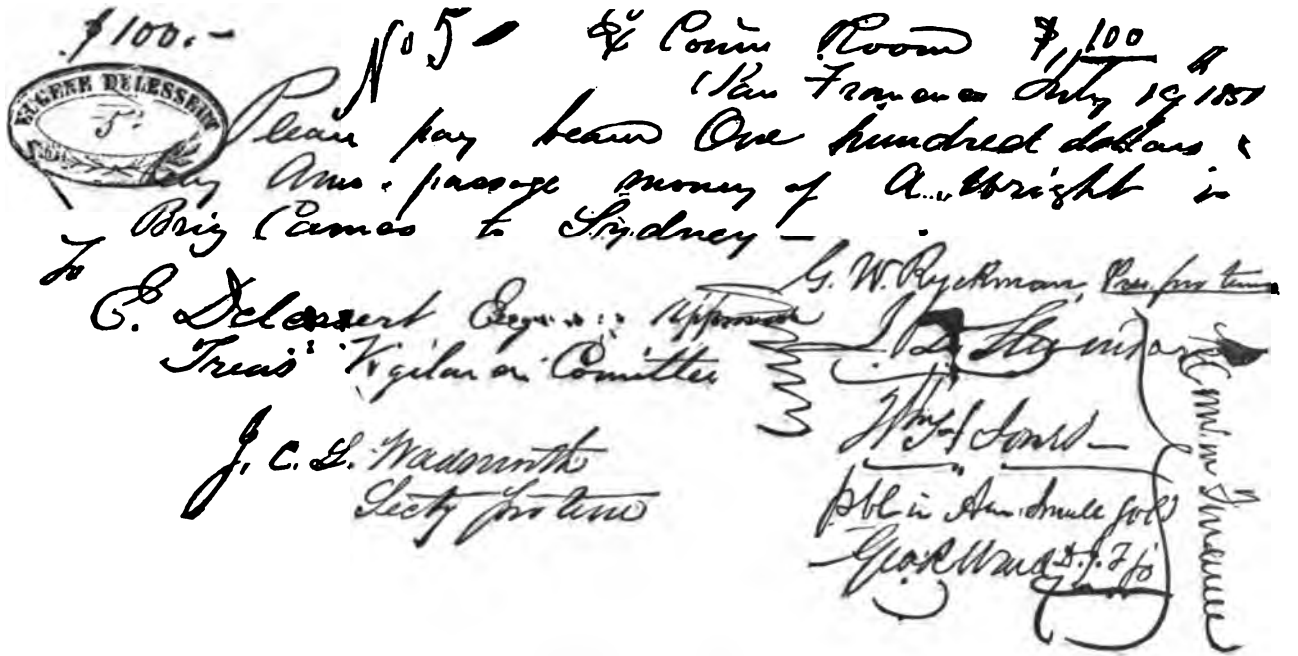

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but a police organization only; yet in case of emergency the officers of the association had a way of speedily adapting their forces to circumstances.

Beside the regular police there was a water police, of which Ned Wakeman was chief. The regular police were paid, but often members were detailed for police duty who drew no pay. The city was districted, and a committee appointed to oversee the affairs of each district. The water police were stationed along the city front to keep an eye on ships and sailors, and to watch for thieves accustomed to enter from beneath stores built over the water. Charles Minturn was in the steam-boat business then, running the *Senator* on the Sacramento River, and was supposed to have in his possession a large amount of money. So it was with others. There being no banks of deposit enjoying the confidence of the community, merchants kept their money in their stores; and often large amounts of gold dust were separated from the pirates underneath only by the thin partition of the floor. Curs were not so plenty in California then as now; few cared to keep a dog at an expense of one or two dollars a day.

The sergeant-at-arms might call on any member, not otherwise engaged in the service of the Committee, at any time, for special duty. A printed form was furnished for the summons, which read as follows:

"COMMITTEE OF VIGILANCE.

"ANDREW ANDERSON:

"You are detailed for secret duty from ten o'clock to twelve o'clock to-night, and will report accordingly to the Sergeant-at-Arms at the Committee Room. No. 58.

"*San Francisco, June 19, 1851.*"

It was resolved on the 27th of June that each member should report himself at the committee rooms once in every twenty-four hours.

Copies of passenger-lists of vessels arriving from certain ports were obtained, and the character of the

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new arrivals carefully examined. Out of mercy for their historian I beg the coming committees of vigilance to date their documents. In the huge intermixture before me are hundreds of letters, reports, resolutions, and even examinations and confessions, to which it is impossible to give their proper place in this history, from the fact that they bear no date. What is strange about it is that most of these documents are written by business men, who would never think of sending out a business letter with such an omission.

Some of the minutes of meetings, notices, complaints, evidence, and reports are carelessly dated 1851 during the early part of 1852, before the writer had become accustomed to the new year. These blunders I am able to detect by comparing such papers with the events spoken of. Fortunately, from the records and from their connection therewith, I am able to place the most important of these documents, but the labor is doubled from their lacking date.

The vigilance system was one of popular espionage the most extensive and complete a liberal government has ever seen. Every man was a spy on every other man. Opposition was intimidated by the watchful eye and silent tongue. Often a bad man did not know his bedfellow, or when or where to speak his mind.

One day a group of men, gathered in the bar-room of the Union Hotel, stood talking somewhat too loudly and vehemently against the 'stranglers,' when Mr Ryckman stepped in for his luncheon. After listening attentively for a few moments, though without appearing to notice them, he stepped up to one of the chief speakers, a wealthy, influential man, whom he well knew, and called him aside, saying he wished to speak a word with him. When they were alone Ryckman drew from his pocket an imprint of the watchful eye, the emblem of the organization, and showing it to him, said:

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"The Committee will see you at their rooms this evening at eight o'clock."

"My God, Ryckman! what do you mean? Surely you are not one of them?"

"I mean what I say," answered Ryckman. "These men are staking their lives and fortunes for the general good, and they shall not be vilified in my hearing behind their backs. If you have any charges to make, and will substantiate them, they will listen to your accusation against themselves, or any one of their number, as dispassionately as they will listen to my accusation against you. Good-day. You will be there at the appointed hour."

As Ryckman moved off, his quondam friend seized hold of him, and in the most piteous terms begged him to recall the order for his arrest, promising respectful prudence for the future. With some further words of admonition, to this at length Ryckman was constrained to yield assent, and so left him.

The sergeant-at-arms reports, at the meeting of July 4th, numbers 317, 264, and 236 as injurious to the Committee, and thenceforth those members were refused admission.

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CHAPTER XV.

JOHN JENKINS, NOLENS VOLENS.

A dismal universal hiss, the sound of public scorn.
Milton.

In Washington Block, on Long Wharf, was the shipping office of Mr Virgin. It was customary, under the reckless régime of that business epoch, for merchants and others to leave their offices unlocked during the day, coming and going at pleasure, while in the drawer or money-box might be thousands of dollars in gold. Prior to this time it was even more common. Mr Neall informs me that in 1849, often on Sunday he would tie his tent strings, take his gun, and march off over the sand-hills, leaving thus exposed his stock, and sometimes fifty thousand dollars in gold dust locked in a little iron box which one blow of a hammer would shiver. This spirit of indifference to money among money-making men, and the absence of suspicion between those so lately strangers, is one of the strangest characteristics of the times. It is no wonder that the men of Sydney, accustomed to the ponderous vaults which barred their fingers from the property of their English brethren, should laugh within their hearts at the shrewd simplicity of these careless money-getters.

Like his neighbors, Mr Virgin kept his money in a small iron safe, such as a strong man could easily carry, and on leaving his office he never thought of locking the door. There was a stranger Mr Virgin had noticed several times of late lounging about the wharf; a tall, powerful man, with keen, restless eyes,

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though, as the shipping agent imagined, a somewhat sinister expression about the face. He was just the person, one would think, successfully to cope with difficulties in virtuous endeavor in such a place as California. Indeed he once entered Mr Virgin's office and spoke of passage to the upper country and of the several chances for an honest man in various parts; and although to the intuitive perceptions of the Californian these lacked the genuine ring of honest purpose, the shipping agent thought little of it, as there were hundreds of adventurers who came to him daily, destined they knew not whither.

For several days this man had been lurking about, awaiting such time as would at once find this office empty and the coast clear without; for the truth is, the Sydney stranger, for such he was, had some time since resolved to appropriate to himself in one lump the proceeds of many laborers rather than to go and dig for himself. There was greater risk in such adventure, and greater skill required in its achievement, but he would undertake it.

The time chosen was Tuesday, the 10th of June, 1851, toward the dusk of evening. Mr Virgin was absent from his office attending to the sailing of one of his vessels, and the attention of loungers about the wharf was momentarily called in the same direction. It was a bold, a brazen thing to do; one would think the chances altogether against the thief. And so they were; but when philosophers in some certain quarters of their mind are such fools, when the ablest scholars in science, divinity, and jurisprudence as a rule indulge each in some quaint absurdity of so simple a nature as to call to the face of homely common-sense a smile, surely we should not look for perfection in skilled villainy. It is asking too much of the genius of rascality that every thread of logic in its hypotheses should be equally strong while the genius of morality is often so bat-blind and owlish.

He would try it. Throwing round him one last

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hurried glance, he thenceforth shut his eyes to consequences, and stepping into the office he seized the safe, slipped round the building, and dropping it into a boat ready for the purpose, shot from the wharf. It was all done in an instant; and once out upon the Bay with his prize he did not stop to see what was to come of it, but pulled away with all his might for the opposite shore.

Virgin shortly returned and missed his safe. Raising the alarm, he soon found several who had seen the man with his burden, and instantly a dozen boats were in hot pursuit.

At such a time every right-thinking man made his neighbor's cause his own. This was another of the peculiarities of Californian character incident to the times. I do not mean to say that it is uncommon or less natural for virtue to band for self-protection than for vice; but in California more than elsewhere, and then more than now, there was manifest a fraternal feeling among both the good and the bad such as I have never witnessed elsewhere. In coming hither all were strangers in a strange land; all had much in common; each carried his fortune in his own hand; in the absence of firm general rule each alone felt unprotected; hence there was more than ordinarily apparent that natural uniting instinctive to weakness.

One boat with but a single oarsman, even though he were a strong man whose life depended on his exertion, was no match for a dozen boats well manned by skilful rowers; so the thief soon saw, as he would say, that the game was up. But they should not have the money though he swung for it. What he could not enjoy they should not. Half the battle would be won, though they should capture him, if he could cheat them of one of the objects of their eager pursuit; so he threw the safe overboard and pulled away harder than ever.

But all in vain; for presently he saw his head surrounded by twenty open-mouthed pistols, each thirsty

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to drink his life. The call to stop was unnecessary; the thief rested on his oars and was a prisoner. The spot was marked by his pursuers where the safe was dropped; and while some stopped to fish it out, which was successfully accomplished, others conveyed the prisoner to the new tribunal of the people, as the one most proper to administer justice according to the temper of the times. Two or three policemen made their appearance after the man was taken, and suggested that they had a safe and proper place for him; but they were told not to disturb their sleep by looking after other people's prisoners.

The citizens' meeting at Brannan's stores on this Tuesday night, as we have seen, was adjourned, although the members of the newly organized association had not dispersed. While they were conversing upon affairs yet uppermost in their minds a knock was heard, and word came in that a thief had been taken, and that his captors waited with him outside. They were ordered in. Quicker than had been surmised was here an opportunity to test the new machinery, and see how the so lately improvised judicial engine under action would behave.

As the prisoner, closely guarded, entered, the California Company's bell sounded the alarm, calling all good citizens to rally to the support of their Committee. The thing was not done stealthily, under cover of darkness, as we have so often been told. I have it on the authority of Mr Neall himself that his associate, Mr Oakes, with a billet of wood in his own hand, struck the bell twenty times and more, three strokes and a pause each sounding, such being the signal agreed on.

Still surrounded by his captors with cocked pistols in their hands, the prisoner was placed before his judges. Rough, tall, powerful, of fine physique, with English dress and cast of feature, he stood glaring defiance through the dim candle-light like a foiled Argantes. He was an Australian convict, and known

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to many present as an old offender. Simpton was his true name, but he called himself John Jenkins; and in so far as this apparent predilection is concerned we will humor him, and so pass him to posterity. He was a vicious-looking man, a desperate character, who on many occasions had eluded justice, and his record would entitle him to the severest punishment. All this could be easily proven.

Few who heard the strokes upon the California Company's bell on that night knew the exact purport of its sounding. They knew that the confused events of the last several months had boded dire combustion; but speaking little, each joined the throng, which was soon discovered to be leading to the little frame house standing on the corner of Bush and Sansome streets.

The executive committee immediately organized as a court, with the president, Samuel Brannan, as chief judge, and the members of the Committee as associate judges. The sergeant-at-arms was required to clear the rooms of all save the members and officers of the tribunal, which now numbered about seventy names. The case was then opened and testimony taken. To prove the last offence was a simple matter, as there were present many well known and highly credible witnesses fresh from the scene. It was then proposed to inquire into his previous conduct, and bring testimony, if obtainable, in regard to former crimes. This was easily done, as there were those present in the gathered multitude without who knew him well, and his acts were bold and recent. A committee was appointed to obtain witnesses for the accused.

Both before and after the arrest of Jenkins quiet and good order prevailed. Within the committee room there was no undue excitement, and without there was no disturbance. Yet notwithstanding the general calmness there was no little nervousness beneath the surface of things. Here was a desperate deed, unparalleled in its audacity, done in the teeth and at the very moment of the vigilance organization.

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At one time during the proceedings there appeared to be some faltering on the part of the judges, or rather a hesitancy to take the lead in assuming responsibility, and braving what might be subsequent odium. It was one thing for a half-drunken rabble to take the life of a fellow-man, but quite another thing for staid church-going men of business to do it. Then it was that William A. Howard, a man of impetuous bravery, after watching the cooling zeal for a few moments, rose, and laying his revolver on the table, looked about over the assembly; then in slow, clear enunciation said: "Gentlemen, as I understand it, we are here to hang somebody!" The look and manner were enough; there was no more halting.

The trial lasted until eleven o'clock, when the prisoner was conducted to an adjoining room, and the jury were called to render their decision. The verdict was unanimous; the prisoner was guilty and should be hanged.

"When?"

"The sooner the better; immediately. Safety demanded prompt action in the exercise of this new expedient."

Ryckman entered the prisoner's room and made known to him the decision of the tribunal.

"Bosh!" was the only reply.

"Tell me truly, what is your name?" asked Ryckman.

"John Jenkins."

"Mr Jenkins, you are to die before daybreak."

"No, I am not."

"Have you any money or message to send your friends?"

"No."

"Do you wish me to write to any one for you?"

"No."

"Can I do anything for you?"

"Yes; give me some brandy and a cigar." These were given him. He drank deep, and smoked with

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a relish. Mr Ryckman then asked the condemned if he would like a clergyman; and if so, of what denomination. Jenkins, after receiving repeated assurances that his death was near, intimated that if he must have one he would prefer an Episcopalian; accordingly the Rev. Mr Mines was summoned and came immediately.

Mr Mines had not been long alone with the prisoner before the Committee began to be impatient. It was the sentiment of the meeting that prayers and exhortations should be short, as well as trials and executions. The police might rally and attempt a rescue; then Broderick, too, was out with all his force, and strongly opposed to the Committee. At last Mr Ryckman could curb his restlessness no longer, and entering again the prisoner's room, he said: "Mr Mines, you have now consumed three quarters of an hour, and I want you to bring this prayer business to a close. I am going to hang this man in fifteen minutes."

Throughout the entire proceedings the bearing of the prisoner was defiant and insulting. He confidently expected to be rescued at any moment, and openly intimated as much. Indeed, while the trial was in progress the Committee were informed by its officers that already the roughest characters throughout the city were fully apprised of the organization, and they knew that one of their number was that night taken before it. Mingling with the crowd around the building, listening to what was said, and watching those that entered and came out, it was easy to see that something unusually stern was going on within; and they might well infer, if they purposed to save their comrade, they had best rally to his rescue soon. When the verdict of the jury was told the prisoner, he heaped on them maledictions and told them to do their worst.

The sentence of immediate execution was opposed by some, on the ground that it was neither manly

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nor politic. "To hang him at night, in such hot haste," said Coleman, "would be to lay at our door an undeserved imputation of cowardice. Though our judgments be in secret, our deeds should be visible in the broad light of open day; let this unfortunate man be held till morning, then let him be hanged by the light of the rising sun." This sentiment, however, found few supporters; and when the clergyman came in soon after and reported the criminal impenitent, when he informed them that for his prayers he received naught but curses, those who had advised delay gave way and offered no further objection to immediate action.

While this was going on, it had been thought best to test the quality and sentiment of the people surrounding the building, to tell them what the Committee had done, and what it now proposed to do.

"Sam, you go out and harangue the crowd," said Ryckman to Brannan, "while we make ready to move." Mr Brannan assented, first asking Mr James C. L. Wadsworth to accompany him. The two gentlemen went out, and the crowd opened a passage-way for them. Mr Brannan was a fit match for lighting the popular flame. As ready in the use of invective as the great high-priest of his Mormon order; as full of oaths, as flatly coarse, and roundly ribald as a chief of banditti, no one was more apt in such an emergency than he. Ascending the mound of sand opposite the old Rassette House, Mr Brannan poured forth a torrent of words such as would drown a philippic of Demosthenes. He abjured the law-courts, execrated the judges, and taunted the people for their tame submission to criminal rule. Finally he informed them that he, in company with Mr Wadsworth, had been deputed by the Committee to report what they had done. After an impartial trial the prisoner had been found guilty and sentenced to be hanged, the execution to take place on the plaza in one hour. A clergyman had been sent for, and all things should be

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done in accordance with the solemnity of the occasion; and he charged the people, as they valued the peace and dignity of the commonwealth, to make no rush or disturbance during the solemn scene which was to follow, assuring them that the Committee would endeavor to conduct everything to their satisfaction.

"And now," said he, "tell me, does the action of the Committee meet with your approval?"

A mingled shout of 'ays' and 'noes' went up from the crowd, with cheers and cries of "Who is the speaker?" "Who are the Committee?" "No names!" "No names!" The 'ays' were largely in the majority, and the crowd moved off toward the plaza.

A committee was then appointed, consisting of Coleman, Wakeman, and Schenck, to select a place and make arrangements for the execution, and to report as soon as possible. The three men set out at a round pace on their mission, and although it was then after twelve o'clock they found the city sleepless, and the streets alive with people. There seemed to be something magnetic about the old plaza, for whenever young San Francisco had any special prank in hand that was almost sure to be the play-ground chosen. After discussing the advantages of several points, the three midnight gibbet-hunters finally settled upon making use of the old adobe custom-house building then standing in the plaza. No sooner had they arrived at a decision than a messenger was despatched to head-quarters, saying that all would be ready in fifteen minutes. The arrangements were soon completed. A rope was thrown over a high beam of the veranda at the south end of the building, a noose was made at one end of it, and all was ready.

At half-past one the door was thrown open, and the members of the Committee passed out into the street. There they found that the people had not been wholly unmindful of them; for two large ropes had been procured and were held by lines of men on either side of the entrance, leaving a passage-way for

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the Committee, and at the same time forming a barrier to protect them from the pressure of the crowd. The Committee then formed within the ropes, in two lines of two abreast; the prisoner, bound, and under a strong guard, was placed between them; the lines were then closed at either end, and thus they marched quickstep toward the plaza.

Among the number was little George Ward, as brimful of snap as a fire-cracker, and as brave as Jack the Giant-Killer. As he marched, marched away, brandishing his weapon as one bent on doughty deeds, Ned Wakeman cried out, "Take the pistol away from that boy; he will hurt somebody!"

Before marching, Bluxome tapped his revolver and said to the prisoner: "In any attempt which may be made to take you out of our hands, at the first movement you make to escape, you die. That is my part of this night's programme." "Yes, sir!" chimed in Ward, "if the police attempt to seize you, sir, we will blow your head off, sir!"

As the Committee started their prisoner on his last earthly walk the California Company's bell tolled the death knell of the condemned, striking in the stillness of the night upon the ears of that outraged community with awful solemnity. Fainter and fainter the strokes were heard, like the dying of earthly sounds to the departing soul, as the column marched away; but as it neared the scene of execution the Monumental Company's bell struck clear and full upon the ear. Ah! then and since, at the tolling of that Monumental bell, how the consciences of its hearers were pricked; how to guilty souls accusing voices whispered; how hearts sank, and breaths thickened, and limbs trembled, until, like Eugene Aram, they were seized with an irresistible impulse to confess their sins and yield themselves up to justice!

Meanwhile the officers of the law and the desperadoes had not been idle. Their emissaries kept them fully informed as to the movements about the

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Committee rooms; and when the column formed in front of the door they quickly knew it, and determined on an attack. Collecting about the corner of Clay and Kearny streets, they waited the approaching procession. But the Vigilance Committee were made aware of their intention, and were prepared for them. All had their weapons ready, and were determined, if necessary, to use them. If thwarted now they felt that they might almost as well abandon the country as attempt its purgation further. As they approached the plaza, Benjamin Ray, chief of police, made a dash for the prisoner; but this was more a feint made under color of duty than a real attempt at rescue. He was easily thrust aside, and then was plainly told that he had better keep away. The desperadoes were next upon them, but they were beaten back without much difficulty, and the column continued its way unbroken. Near the centre of the plaza stood the liberty pole; and as they entered the square some thought the purpose was to use it as a gallows.

"No, no! not there!" they shouted. "Don't desecrate the flag!" So said the unreasoning rabble; for if it was a righteous deed that was to be done how would it hurt the flag?

Some confusion ensued; but soon the patriotic populace was made aware that such was not the intention, and all was quiet again. Arrived at the south porch of the old adobe, the prisoner was placed beneath the rope, which passed through a pulley fastened to the railing of the veranda, and about half-past two the noose was adjusted round his neck.

"Every lover of liberty and good order lay hold!" cried Brannan; and scarcely were the words uttered when fifty hands grasped the rope, and with a sudden jerk which broke his neck the unfortunate man was lifted upward, and his guilty soul shot hence into the unknown realm of the beyond.

During the latter part of this tragic scene the condemned had manifested the utmost indifference.

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Though he well knew that the failure of the fraternity to rescue him sealed his doom, he was calm and courageous to the last. He marched to his death with firm step and fearless eye, smoking the while, and died with a cigar in his mouth.

The body was left hanging, under a strong citizens' guard, until six o'clock, when it was given up to the authorities, and was cut down by the city marshal. Two hundred and eighteen dollars were found in the pockets of the deceased, which went to defray the burial expenses.

While it was absolutely necessary that the Vigilance Committee should keep its own counsel, that its investigations and intentions should rest a profound secret in the breast of the few, the members were no less determined that every one of their acts should be performed as under the eye of God, as under the direction of a pure conscience, and should be such as might not fear the after scrutiny of their fellow-men. Some now felt the responsibility so burdensome that, while their hearts were in the cause, their courage was made craven by fears of the consequence. But of the executive committee there were comparatively few so stricken. Some natures, good enough in their way, shrink from dangerous responsibility; some are cowards by instinct. Such the stronger souled bowed kind God-speed to the committee room door, and bade them go, then turned their thoughts to practical justice. Up to this time no oath of secrecy had been administered to members of the Committee; all that was required for admission into the society was a recommendation from a member who vouched for the character of the applicant.

The testimony of Mr Brannan at the coroner's inquest, held the day following, further illustrates the objects of the association and the manner in which the trial was conducted. But it must be remembered that the operations of the Committee were

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not then systematized in all their parts, nor did Mr Brannan deem it prudent to tell all he knew. Some questions he declined to answer. What he said was as follows: That he first saw the man at the corner of Bush and Sansome streets. Two men held him by the arms, who said that they had arrested him. He was not then handcuffed or pinioned. He was tried fairly, by sixty or eighty persons, and the verdict of guilty was unanimous. The jury impanelled themselves; they were composed of the committee of safety, all citizens of the town. He had heard threats made against the lives and property of the members; a prisoner in the county prison swore that he, Brannan, should not live ninety days. He knew of nothing done by the Committee that they would conceal from the officers of the law under proper circumstances.

On the other hand, Hall McAllister testified that, going to the committee rooms about twelve o'clock, he endeavored to obtain admittance, but was repulsed. He saw others give the countersign and enter, each whispering to the door-keeper the password, which obtained him entrance. He neither participated in the proceedings nor sympathized with the party; later he was disgusted at what he deemed an outrage.

"No man need be afraid to let his children know the part he took in that transaction," writes the editor of the *Courier*, three days after the event. Speaking of the constitution and by-laws of the Vigilance Committee, which appeared in the public prints of the 13th of June, signed by the then existing members, the *Herald* says: "If any guaranty were requisite of the justice and fairness of the proceedings of Tuesday night, it is furnished in this array of names, the most respectable and influential in the city. That the Committee did not sit with closed doors for any sinister purpose will likewise be evident from this voluntary publication."

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At the coroner's inquest the following verdict was rendered:

"We, the jurors of a jury of inquest impanelled by the coroner of the county of San Francisco to inquire into the cause of the death of one John Jenkins, alias Simpton, do find, upon their oaths, that the said Jenkins, alias Simpton, came to his death on the morning of the 11th of June, between the hours of two and three o'clock, by violent means, by strangulation, caused by being suspended by the neck with a rope attached to the south end of the adobe building on the plaza, at the hands of, and in pursuance of a preconcerted action on the part of an association of citizens, styling themselves a Committee of Vigilance, of whom the following members are implicated by direct testimony, to wit: Capt. Edgar Wakeman, Wm. H. Jones, James C. Ward, Edward A. King, T. K. Battelle, Benj. Reynolds, J. S. Eagan, J. C. Derby, and Samuel Brannan."

To which the Committee made reply:

"*Resolved*, That we, the members of the Committee of Vigilance, remark with surprise the invidious verdict rendered by the coroner's jury upon their inquest upon the body of Jenkins, after we have all notified the said jury and the public that we are all participators in the trial and execution of said Jenkins. We desire that the public will understand that Captain E. Wakeman, W. H. Jones, James C. Ward, Edward A. King, T. K. Battelle, Benjamin Reynolds, J. S. Eagan, J. C. Derby, and Sam'l Brannan, have been unnecessarily picked from our number, as the coroner's jury have had full evidence of the fact that all the undersigned have been equally implicated, and are equally responsible with their above named associates."

This was signed by one hundred and eighty members of the Committee, and published in the public journals of the day.

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CHAPTER XVI.

THE SAN FRANCISCO EXECUTIVE COMMITTEE OF 1851.

Solid men of Boston, banish long potations;
Solid men of Boston, make no long orations.

Morris.

THE association was admirably systematized, displaying marked ability on the part of the management. Each member of the general committee, whether composed of fifty, five hundred, or five thousand men, knew his place, knew exactly what to do when an alarm sounded; and further than that he knew nothing. He could keep well the secret which was never intrusted him. He knew enough, but not too much; enough to direct him on all occasions what to do, but not enough to enable him to question and to cavil.

It was the duty of the executive committee to see that every person brought before them accused of crime should have a fair trial; that none should be convicted upon less testimony, setting aside legal technicalities and court clap-trap, than would suffice to convict in any respectable court of justice. The executive committee made no arrests, unless it so happened that some member of irrepressible activity should pick up a criminal now and then; but it was their province to take cognizance of everything connected with the association, great and small. This was the central power round which all interests revolved. It was the inquisition, the privy council, the secret spring that moved the ponderous machinery, the living, thinking soul, of which the general committee was the body corporate. All power was lodged

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in them; all secrets were lodged with them; all orders emanated from them, and every member of the association was bound to obey unquestioningly, unhesitatingly, and as blindly as a common soldier obeys his commanding officer.

When an arrest was made, the usual course was first to confine the prisoner, under guard, in a room or cell provided for that purpose, until an examination could be made. A sub-committee was then appointed by the executive committee to make the investigation, the results of which were reported to the executive committee for final action. When brought before the Committee, the prisoner was first examined as to his antecedents, inquiries made into his present life, and then investigations made of any charges that should be brought against him. One might think that a stranger telling his own story could deceive at pleasure. But this was not so easily done. No one was arrested except for some cause. Before and after the arrest all information possible concerning the culprit was obtained and laid before the Committee. The prisoner was unaware what his inquisitors knew or did not know; and with a score or two of sharp eyes upon him, he felt neither comfort nor confidence in his lying. After the trial and conviction of a criminal by the executive committee the case was referred for approval and confirmation to the general committee, who almost invariably confirmed the decision of the executive committee. Often a tale of innocence such as an angel might tell was interrupted with questions like these: "My good man, do you not know there is not a word of truth in what you are saying? Do you not know that you were put on board the *Susan Wright*, bound for Australia, the 13th of September, 1843, in irons, and that you came to California with money stolen at Hobart Town? Do you not know that on the night of the fire, the 4th of May, you were in the Magnolia saloon, and not at San José, as you have

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said? Unless, sir, you can speak the truth, you will be sent back to your cell and tried on more trustworthy testimony."

The records of the executive committee begin with the 16th of June, with Samuel Brannan as chairman and David S. Turner secretary. At this meeting it was ordered that the captains of the night patrol be vested with full powers by the executive committee to act as they might see fit; and further, to have the privilege of choosing for the guard such men from the general committee as they should please; and that the said captains of patrol should be instructed to keep all information they might acquire during the night a profound secret pending the action of the executive committee to make it known to the general committee.

On motion of Wm. T. Coleman it was ordered that all refreshments should be placed under the control of the sergeant-at-arms, and by him dealt out only to members on duty; and that spirituous liquors for the use of the Committee should be excluded from the building. It was likewise directed that the heads of committees should be instructed to keep secret all information which might come to their knowledge. Taking the floor, Mr Brannan urged that some one should wait upon the district attorney and learn the particulars of a certain criminal case then pending, and all other matters of interest to the cause. This measure was resolved on; and also that a committee of three should wait on the mayor and the sheriff, ascertain their strength, the strength of prisons, the condition of prisoners, and their disposition to coöperate with the Committee in their work of reform.

The last entry in the first book of minutes of the association is under date of July 4, 1851. Between this date and the opening of the large book of proceedings the 17th of September the interval is left without record save on loose papers, the writing on which is oftentimes half obliterated.

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During the most of this time, that is to say from June to September, the executive committee met and held court every day. There was work enough to keep them all busy. Information concerning crimes and criminals came pouring in on them from every quarter. Individual informers and country committees of vigilance were hourly notifying the Committee of the whereabouts of felons who must be hunted down and brought to trial. With a large, active, and enthusiastic police force constantly bringing up cases requiring the most careful consideration; with the rapid arrival of vessels having on board convicts and questionable characters, involving personal examination on the part of the agents or emissaries of the association of hundreds of men and women; with five or ten prisoners on trial at one time, requiring the employment of counsel, the searching for and examining of witnesses, the taking of testimony and receiving and recording confessions, of which class of documents the archives of the association are largely composed; with an occasional hanging to be done, and a constant shipping away of those so sentenced by the Committee—securing their passage, and raising the money to pay it, and attending them beyond the Golden Gate; with the watching of judges, and the proceedings of courts of justice; with five hundred impatient members to satisfy, who were always eager for something to be done; with the settling of differences of opinion among themselves, and the general and particular care of the workings of the new and strange machinery—with all this and much more, I say, these judges had work enough to do in the conscientious execution of their self-imposed duties.

It was ordered at the meeting of the executive committee the 17th of June that some plan of proceeding should be adopted as to the disposition of those ordered to leave. They resolved likewise to watch the proceedings of the trial of a noted burglar. The next meeting directed the chief of police to bring

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before the Committee one under sentence of banishment, to hear what he had to say in his defence. The testimony was very lengthy, occupying the Committee more than five hours. It was all taken down by the secretary and filed with the other papers in the case. The evidence thus far was rather against him, and his case was continued. Meanwhile the June fire occurred, and the wrath of the citizens waxed hot against the supposed incendiaries. The executive committee offered a reward of five thousand dollars for the delivery into their power, with evidence sufficient to convict, of any person guilty of the crime of arson.

It well became the officers of the law during the movement of 1851 to treat the Vigilance Committee with profound respect. So heartily were the people in sympathy with the organization that there was little sentiment wasted on the rights and divinity of law. The men of law were watched as closely by the reformers as were the lawless, and the higher the seat of corruption the sooner was it assailed. Woe, then, to him of evil conscience; be he sheriff, judge, or governor, his sins shall not go unpunished!

The sum of five hundred dollars was voted the captain of police, the 1st of July, for secret service money. At the same time inquiry was to be made into the manner of the arrest of a negro by an officer of the law. The business transacted by the Committee the 2d of July was as follows: Being informed by Captain McGowan, of the revenue cutter, of the arrival of the bark *John Potter* from Sydney, a committee of five was appointed to visit the vessel and report. Communications, one from the Committee of Vigilance of Santa Clara, another about a robbery, another from the Vigilance Committee of Marysville in regard to the Jansen affair, were read and acted on. Captain White, of the brig *Cameo*, bound for Sydney direct, informed the Committee that he was ready to take with him any scoundrels they might wish to

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send, at the rate of one hundred dollars each. He promised likewise to give bonds for their safe delivery at Sydney or Hobart Town.

It was hardly to be supposed, as humanity is constructed, that so many men of nervous energy, of independent thought and pronounced ideas, should not differ warmly in their opinions on occasions; in other words, that they should never quarrel. The wonder is that they could hold together at all; that the mercury in their natures should so marry the metal of their minds as to form a solid ball of amalgam which no infelicities of temper could dissipate. Indeed their quarrels were never anything but children's quarrels. So deep was their respect for each other, so impressed were they with the importance of their undertaking, and so earnest in their purpose, that self was swallowed in the common cause, and personal pride and pique were but the momentary stinging of a gnat. In their high purpose, then, I say, they were men; in their disagreements, children.

In July, 1851, Mr Brannan sent in his resignation, both as president of the association and as member of the executive committee. It seems that some sharp words had passed between him and McDuffie, sergeant-at-arms. As I have said, Mr Brannan was just the man to incite a revolution, but he was not the man to conduct one. The shot of determinate purpose once fired from his brain, like Nelson at Copenhagen with his blind eye to the telescope, he would not see the signal of retreat. There were better men than Brannan for president; there were fifty as good as McDuffie for sergeant-at-arms. Yet these were both good and true men in the present emergency. The cause owed much to Mr Brannan; and that it needed him less now was not sufficient reason, in the eyes of his associates, that he should be sacrificed to his own irascibility. So a committee was appointed to heal the feud between the officers; and such, with

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but few exceptions, was the quality of magnanimity manifested by these men throughout their entire intercourse.

Payran was of this Committee one of the leading spirits. He was a man of dignity and courage, and ready alike with tongue or pen. He had been a copyist in Philadelphia, and took down testimony rapidly and easily. The following incident illustrates at once his character, and the method, or rather the lack of method, employed by the vigilants in the execution of their commissions:

It happened that a poor woman who had adopted a young girl, then about ten years of age, and was striving as best she might to rear her charge virtuously, one day rushed to the committee rooms and entered an appeal which moved the hearts of all present. Certain former associates of the child's mother had just then abducted the girl from her guardian and had hurried her off to Marysville, there to be eventually employed, as the woman was assured, for vile purposes. Payran asked to be appointed a committee of one to recover the child.

"But what can one do?" asked a member of the Committee. "Marysville, as you are well aware, is ruled entirely by the roughs, of whom the local committee themselves stand in awe."

"Nevertheless, I will go," said Payran. "All I ask is the authority of this board."

"That you most assuredly have," replied the Committee-man; a sentiment which his fellow-members immediately confirmed. "But beware! there is danger in it; the child was not taken to be given up for the asking."

"Trust me," said Payran. Arrived at Marysville, accompanied by the woman for purposes of proof and identification, he soon ascertained the whereabouts of the child. Without discovering himself to its abductors, he went quietly round among the prominent citizens of the place, stated the circumstances, and

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informed them of his determination. They warned him that, even if successful, his life sooner or later must be paid as the price of his temerity. Assistance was volunteered, but not sufficient for the purpose. The authorities were, more than elsewhere, pusillanimous. What was to be done? Must he return baffled, to his associates, his expressed assurance of success an idle boast? Never! at all events not alive.

Most opportunely, after a discouraging day, at the hotel where he was stopping there arrived some twenty miners, long, lusty fellows, with big hearts and bushy heads, *en route* for home.

It was just the material for the purpose. Returning to civilization in the heyday of success, their muscles well strung, their hearts pliable, and their emotions easily excited, to those twenty rough diggers Payran had but to state the object of his mission, when twenty big round oaths pledged twenty honest lives to smash the town, if necessary; at all events to see Payran through. Just before the boat was ready to start they shouldered their packs, and demanded to be shown the child. Proceeding in a body to the house in which the girl was staying, Payran and the woman entered, and after some trouble succeeded in getting the girl to the door. Then each man drawing his revolver, they formed a hollow square, with the woman and her child in the centre. So they all marched down to the boat; and there would have been hot and lively times in Marysville that day had any persons interfered.

Selim Woodworth was more than man in some things and less than man in others. In certain directions he seemed inspired with superhuman instincts and superhuman energy, while in other quarters he was but a boy. He was eminently a good fellow, open of heart and countenance, and of tender sensibilities—not exactly the material one would expect in the captain of a band of stranglers—and it was these qualities, perhaps, that gave him that air of boyishness

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which might easily be taken for effeminacy or a nature trifling. But when it came to duty, suddenly all nonsense disappeared, and strength and courage came in all the glorious perfections of developed manhood. In money matters he was the soul of honor. He had much trouble with the squatters, who persisted, like flies about a carcass, in settling on a lot which he owned where the Grand Hotel later stood.

Gerritt W. Ryckman, the third president of the association, was from Albany, New York. He came to California in the steamer *Unicorn*, arriving at San Francisco the 30th October, 1849. I never saw in any human being such reckless indifference to consequences in regard to the penalties to which he subjected himself in participating in such a movement as was manifest in Ryckman. He was well advanced in years when I first saw him; and though his voice was often tremulous in our conversations, his whole frame shook with indignant energy when he talked of the threats and intimidations which were constantly thrown at him. He possessed a wonderful faculty for gaining the confidence of the accused, of winning them over to make a free confession of their guilt, and that without committing himself by promise of pardon or otherwise. The very frankness of his deep determination was contagious. "I will tell you, Mr Ryckman," said one poor fellow to him, "for I know you will do right; but all hell couldn't open my mouth to those others." His very presence inspired faith and invited confidence. His broad face and truthful searching eye; his features, massive with weighty purpose and benignant rectitude; his voice low, kind, but resolute; his step, his bearing, all were indicative of candor, singleness of heart, and conscientiousness, obdurate, but sympathetic and unsinful. Thus it was that, while he hanged these men, they not only feared and respected him, but they almost loved him. If Mr Ryckman had the say about it, they felt in some way they would be freed; and yet this kind inquisitor

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of theirs was usually the first to tell them they deserved to hang, and should be hanged.

Often a friendly criminal has warned him: "Have a care, Mr Ryckman; keep your house at night, and take the middle of the street when you walk to it; there are more than one in this town who have sworn to kill you." "Do not be troubled," he would reply; "I have no fear. There is not one of them would kill me if he could. I know it; and I would trust my life as freely among them as elsewhere. They know that what I do is right; that I bear them no malice; that I would do every one of them good; but they must stop stealing, and burning, and butchering, or I shall stop their breath as sure as God made me."

Ryckman's method of interviewing prisoners is worthy of notice. Throwing into his manner an air of confidential yet dignified familiarity, he approached the culprit and opened the conversation with whatever topic he judged might lie nearest the hearer's heart. He would ask him of his former days, of his birth, parentage, and childhood; of his struggles with fortune, his successes, his failures; of his companions, his loves, and hates. Had he a wife, or children? when did he come to California, and what business did he first engage in here? what led him to a life of crime, and who were his associates? Accompanying his skilful probing with that soothing sympathy which was in truth part of his nature, before he had proceeded far, the poor, bruised, heart-broken wretch was ready, nay eager, to tell him all. Might not this bluff but kind-hearted old man become his friend? might he not help him in his sore distress? might he not save him, at least from death? No bad man thinks himself so bad as to be utterly unworthy of sympathy and assistance. How they would beseech him and cling to him for these! And when he offered to write to friends, to forward money or effects, to perform any act of Christian charity—which commissions were always executed to the letter—brute cour-

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age and bravado, if indeed they had held out so long, gave way, and the abandoned of his fellows often wept like a child. So, too, almost every one condemned, when he saw the chain of testimony was so complete against him, confessed and signed his confession.

While in active service Mr Ryckman devoted almost his entire time to the work of the Committee. During the nine months from the first of June he devoted scarcely five full days to his own private business. More than once he was dogged about the streets by those who had threatened to assassinate him, but he never was for a moment off his guard. Sometimes he would walk straight up to the scoundrels and warn them to leave the city instantly, and they usually obeyed. They were much more afraid of him than was he of them. He had a way of disguising himself and mingling with them, and then suddenly discovering himself.

Mr Ryckman did not regard the new organization in 1856 with favor. Perhaps a tinge of jealousy colored its character in his eyes. Or it may be, like Robespierre, his willingness to participate in capital punishments increased with age. But society had changed since 1851, and in 1856 a new element, with new leaders, marshalled to the front. "The Vigilance Committee of '56 assumed to be the vigilance of '51," he said to me one day, "but it was not. They came to me to join them and bring the old colors, but I would do neither. I went down to one of their meetings, and I told them they needed some one to govern them instead of their assuming the government of others. I got out of patience with their silky, milky way of managing Terry's case. He ought to have been hanged. I rebuked Coleman very severely for some timid act in the '56 Committee."

Mr Isaac Bluxome junior possessed a warm heart and most genial disposition. Amidst an assembly of jovial companions, his face beaming with good humor and the fun-wrinkles radiating from his eyes, he was

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the last person a stranger would take for a 'strangler,' as they of law and order delighted to call the men of vigilance. Malice was a stranger to his heart; no hatred toward his fellow-men was harbored in his breast. In all that solemn assembly of resolute men there was not one who in sincere pity for the poor fellow about to suffer for his crimes excelled him whose duty it was to write the death-warrant.

I knew him well. Many an evening have I sat and listened far into the night to his graphic description of those most stirring days; at which times his whole being seemed ablaze with brilliant memories. Ah! when one's very self is staked on high achievement, and one lives to see the unselfish effort an accomplished fact, who would wish to smother the glow of proud enthusiasm that follows!

I say that Bluxome was the high-priest of good fellows, for I have tasted his companionship. But this was not the dominant quality of his character. His whole nature was instinct with stubborn rectitude. Although there never flitted in my presence one gleam of vindictiveness across his features, I have seen at some cloudy remembrance the flush of mingled pride and pleasure fade from the face, and the glow of kindly fire sink from the outer eye into some unknown depths within, and in their place a fixed and solid stare of inexorable purpose, such as would palsy the tongue of any guilty suppliant. More than life he loved the right, and he alone who sacrilegiously offended it he accounted his enemy. Yet in arriving at conclusions he was most cool, most compassionate. He would not be hurried in forming an opinion. Said a hot-headed member to him one day: "Bluxome, you are on the off side of everything. I believe you are afraid to hang a man!" "Sir," was the reply, "my seat is always at the disposal of this Committee; but while I occupy it, the man does not live who by fair speech or innuendo can move me one hair's breadth from what I deem my duty."

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At the time of the first Committee he was young, ardent, active. Now you would find him acting in his official capacity, then off on some thief-hunting expedition, or on board a newly arrived vessel examining the passengers, and again looking after the detail of his ponderous knave-destroying machinery, and to the comfort of his associates. Says quaint old President Payran: "Our worthy secretary, I. Bluxome junior, has given much time and attention to the rearrangement of our committee rooms; to him the sub-committee feel much indebted, and recommend that the thanks of the executive committee be tendered him." Bluxome was an efficient member of the Committee before he was chosen secretary. The multitude of complaints made before the Committee by all sorts of persons required much time and great discrimination in the disposal of them. The large mass of evidence drawn from witnesses in their examinations, and from officers and members on duty, which I have been compelled to examine, throws much light on the spirit and intent of the association; while the reports of special committees, descriptions of uncaught felons, and the confessions of prisoners show with what zeal and conscientiousness the executive committee performed their duties. Often the name of each member of a disreputable family was ascertained, and the age and personal appearance of suspected individuals were kept constantly before the eyes of the vigilant detectives. The places of resort of every notable offender were known to the Committee, their habits were studied, and their movements watched, so that they might be forthcoming when wanted.

During the period from the organization of the Committee in June, 1851, till the 30th of June, 1852, under which date the last entry is made in the book of proceedings, there was constant communication with country committees, and a general watchfulness maintained in every quarter. Suits and demands for

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damages and reclamations were instituted, to defend which the ablest counsel was employed. To attempt the punishment of one of the members of the Committee, as such, was to offend all. It made no difference against whom the suit was brought, if its origin was through any act of the Committee, or of any member authorized so to act, the cause was made common, and all expenses of defence or damages were defrayed by the Committee. Neither was there ever any attempt in matters personal to the Committee to disregard the law, or to treat the mandates of the courts with indifference or contempt. The Committee fully recognized the sovereignty of law in the settlement of all disputes; it was only in criminal cases, of interest alike to every member of society, that the Committee took cognizance.

While the ablest members of the legal fraternity were unable, or affected to be unable, to comprehend the scope and spirit of the Committee, it is hardly to be wondered that the more simple-minded should so far mistake its meaning as to look for miracles. Numberless were the instances of application for redress which would have baffled the sedate credulity of Don Quixote. It would seem there had arisen a tribunal that should right every wrong, heal wounded spirits, and minister to minds diseased. One applied to have a squatter driven off his lot; another wanted a doctor hanged for poisoning a patient with medicine; a dozen asked to have their debts collected; and one wrote from Mokelumne Hill, furious at a certain James Watkins, whom he regarded a fit subject for treatment by the Committee because he had insulted his wife!

At a general meeting held in July, 1851, it was agreed that thereafter the general committee should convene the first Mondays of March and September in each year, and at such other times as they should be called together by two taps of the bell, or by published notice signed by the president and secretary

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of the executive committee. No person whose dues were in arrears twenty days should be entitled to admission. The executive committee should have power to order and make arrests; to levy assessments; to make or change by-laws; to appoint officers; to try prisoners. All testimony at trials must be taken in writing, and a synopsis of it read at the first general meeting. Such testimony, or any other paper or book belonging to the Committee, should not be mutilated or destroyed, but placed in the hands of the secretary for preservation.

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CHAPTER XVII.

VIGILANCE BECOMES A POWER.

God gives manhood but one clew to success,—utter and exact justice; that he guarantees shall be always expediency.

Wendell Phillips.

SILENTLY the self-protective force, long dormant in the body social, now drew round the rooms of the Vigilance Committee the order-loving people of San Francisco. The action of crime upon progressional industry had produced a friction, of which was engendered an electrical movement as natural and subtle as any displayed by the contending forces that play upon the destinies of matter. The affinities and affiliations inherent in elemental particles throughout the universe were manifest in this uprising, and as well might puny man hope to arrest the movement of heavenly bodies by the enactment of laws antagonistic to the primary laws of attraction and repulsion as to stifle the natural impulses of a crime-ridden people by an appeal to the sacredness of statutes.

Although the law in this instance was comfortably tractable and well behaved, there was not lacking that healthful opposition which in social dynamics constitutes the true strength of every reformatory movement. A religious reformation or a political revolution without opposition, were such a thing possible, would be a tame affair. In the war on evil, as in all war, the strength of the reformatory party is in some degree measured by the strength of the opposition; that is to say, in the upheavals of society the strength employed by the overturning element is in proportion to the force to be overturned. There was here just

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enough of strength in the law, and in the noisy *quasi* protectors of the dignity of law, to band the people firmly and cause them to walk warily.

It was an unusual sight, the quiet midnight trial and execution of Jenkins, half the city asleep while the other half were rallying to the assistance of impotent law. It can hardly be laid to their charge that they acted hastily, or in a vengeful or blood-thirsty manner. Twenty lives and millions of property had been destroyed at the last fire, which was only one of the many successful attempts of these bold villains to burn the young city, and ruin the industries and commerce of its inhabitants. One or the other now must rule; one or the other must now retire. Long and patiently they had waited on law, but law brought them no relief. A committee of public safety was demanded by the people, and they who hanged Jenkins were earnestly requested not to stop there, but to follow up the work so well begun. The necessity which compelled the deed to be done in darkness was deplored, but the proceedings were fully justified by the press and the people. A large mass-meeting was held on the plaza the night following, in which the citizens were urged to enroll themselves into a committee of safety, and the proceedings of the night previous were ratified. Yet another meeting was held the next night, more boisterous than the former. The opposition at one time gained possession of the stand, but in their turn were driven from it by the reformers. There was much needless speech-making and scuffling, and the proceedings were not regarded with favor by the lovers of healthy reform.

These two demonstrations of popular unrest were without concerted aim or defined action. The first was held on Wednesday evening, and adjourned to the following afternoon. Both were largely attended. Various opinions were expressed as to the late summary proceedings, but there was a large majority in favor of sustaining the action of the Committee. At

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these gatherings David C. Broderick, backed by his rough retainers, appeared as the champion of law and order. The vigilant party attempted to offer resolutions in support of the movement, which Broderick determined to defeat. There was but one way to accomplish the purpose, which was to break up the assembly; and Broderick did not for a moment hesitate to resort to such means. Once, when the ayes and noes were called, the Broderick party claimed the vote, which being justly denied them, they made a rush at the speaker's stand, and raised a great uproar. Such meetings were wholly uncalled for, and could not well be productive of beneficial results. They were composed of that part of the population through whose dull brain the idea was just now finding its way that something must be done. Eight thousand such appeared, who listened open-mouthed to the rantings of demagogues, while the Vigilance Committee, the real power, quietly kept its own counsel, and pursued its own way. The conduct of the opposition, however, offered yet another illustration of their many paradoxical ways, wherein they hold to one doctrine and act another. It is the privilege of a free people to go and come at pleasure, to scatter abroad, or to congregate in such place and numbers as they deem fit; and so long as neither treason nor violence is indulged in, neither magistrate nor police can prevent them. Again and again the men of law backed their arguments against lawlessness by lawless deeds; and if, by the hard practical sense of the great unsanctified, their wind-bags of logic were pricked, a martyr's woe elongated their visage.

While the trial of Jenkins was yet in progress many of the best men stepped forward and enrolled themselves members of the association, and after his execution the numbers rapidly swelled. On the 11th of June the Vigilance Committee did not number over one hundred, but immediately after its numbers increased to five hundred, one hundred of whom were

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on duty day and night. The organization wa
plete and effective; their purpose was pursued
lessly and thoroughly. A fortnight had not
before an entire change was noticed in the s
society. The arm of crime was palsied; an i
net-work was woven round evil-doers. The v
of this new-born justice was sleepless; its juri
extended to all classes and crimes and its age
silent and ubiquitous. Frequent meetings w
in which work was given out, and no scoundrel might
know when a member of the association was at his elbow. Cool circumspection, earnestness, and energy characterized all the movements of the Committee. Facts concerning criminals were entered as collected in a book kept for that purpose. Among other good works, the Committee undertook to complete the county prison then in progress of construction, but delayed for want of funds. Each of the five hundred members was made responsible for the collection of thirty dollars, thus securing instantly the fifteen thousand dollars lacking to finish the building.

Meanwhile immigration continued to pour in the bad element, and ere long rascality began again to lift its head. Gold had not yet been discovered in Australia, and when the fame of California reached those shores every effort was made to escape from the penal colonies of Great Britain. Ship-masters were ready to take any who would pay. Many who had no means shipped as sailors, and on arrival escaped; and so by divers ways hordes managed to come. Sydneytown was now watched by day and patrolled by night, and the passengers and crews of newly arrived vessels were carefully examined. A ship had arrived early in May with a large load of convicts, some of them with shaved heads. The craft had no port clearance, which indicated that her passengers were smuggled on board. The Committee determined to put an end to such traffic.

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lifornia Courier of June 16th the editor

ormation from Sydney and other British colonies in the
s that a general disposition exists to prevent further coloni-
ıe convicts of Great Britain, and to rid themselves of those
lonies. Owing to this feeling great willingness exists on the
ic authorities of those colonies to aid in the transportation of
)ple, and as California offers the most tempting inducements
ts to expatriate themselves, we are likely to get the heaviest
most degraded population. If the British colonies of the
Pacific are to be simply the place where the convicts from Great Britain are to be temporarily disembarked, merely to be reshipped to this part of the United States, California will in the future become the Botany Bay for all her criminal population. The emigration from Sydney during the past month to California has exceeded in number the emigration from all the Atlantic States of this Union for the same period. This is not a declaration made at random, but is made from actual arrivals at this port, and this population is likely to increase monthly to an extent equal to the past month. Evidently heretofore they have been able to burn down the city over our heads some four or five times, destroying some thirty lives and property to the amount of at least $2,000,000. When caught, through their accomplices, they have succeeded in swearing through the courts, to again run at large, and repeat their deeds of darkness and crime with equal avidity and boldness. They are organized into gangs, and have their regular stores, hiding-places, and outposts. We cannot resist them by the slow process of law. We must, therefore, when we catch them committing burglary, theft, murder, or arson, hang them up. If California is to be selected by Great Britain and her British colonies as the habitation of her convicts, we will soon teach her and her dependencies that they are mistaken."

The bark *Chief* entered the harbor of San Francisco the 14th of June with fifteen passengers from Sydney. Only one had a certificate from the American consul, and the rest were believed to be convicts. Objections were made to their landing, but certain respectable citizens vouched for them, and they were permitted to come ashore. The next day a vessel arrived with five passengers, four of whom were women. Even the grim-visaged tribunal in those days was too gallant to raise its front against unprotected woman, though she were a little tainted. Skirted humanity was then too scarce to deny it entrance on the ground of badness; so the Sydney sisters were permitted to land. But much as the

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country needed the salt of women, a little of such seasoning went far. Some of the convicts thus arriving had even been granted their liberty on condition that they would leave those parts and not return to England. As we have seen, the Committee now assumed a permanent character. The duties of members, the times of meeting, the order of proceedings, and the crimes of which it was to take cognizance, were more defined. Theft and murder occupied its chief attention, but idlers and suspected persons were narrowly watched. For a time the one hundred members mentioned were sufficient in the field; and these spent day and night hunting criminals, ferreting infamy, inquiring into the character and purpose of suspicious-looking persons, and bringing them before the dread tribunal, which could be convened at any moment for any purpose by the signal-bell stroke. Punishments were graduated according to the offence. To the accused was always granted a trial if he desired it, but notices to quit were sometimes given on well-grounded suspicion. The words employed on such occasions were laconic, but most significant—thus:

"JEREMY DIDLER:

"You are warned to leave the city within five days.

"By order of THE COMMITTEE OF VIGILANCE.

"No. 67, *Secretary.*"

If this warning was passed unheeded, the person so served was arrested and shipped to Australia or some other foreign port. The executive committee was neither responsible to nor hampered by any other earthly power; it brought its own charges, made its own examinations, and executed its own decrees. Through its instrumentality some were hanged, many were publicly whipped, and many more banished the city. Thus San Francisco was for a short time almost free from professional rogues and scoundrels. The vigilant police boarded vessels arriving from Sydney,

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and every passenger was subjected to the most rigid scrutiny. On board were always respectable persons enough to testify against such disreputable characters as may have been their *compagnons de voyage.*

To avoid impositions, and at the same time to secure immediate attention, all notices to quit were served by a sub-committee of three or more members, and were never sent by a messenger or through the mail. Herewith I give a *fac-simile* of a report of the Committee in a case of exile.

On one occasion in June certain so-called respectable lawyers, of perhaps not too translucent consciences, were startled by what purported to be orders from the inquisition to leave their country for their country's good. The Committee was first of all in its endeavor to ferret these forgers.

If the convicts thus arrested by the Committee and ordered back by vessels going to Australia had money of their own, their fare was paid out of it by the Committee. If they had any effects which could be sold, their passage money was raised in that way. If possessed of nothing, the Committee paid the passage.

The Committee were anxious so far as possible to avoid the taking of life, but preferred resorting to banishment or minor corporal punishment as a penalty for crime. Thus during the active operations of this Committee there were about thirty persons, most of them from Sydney or other British colonies, sent from the country, nearly all being returned to the places whence they came.

The citizens of San Francisco in their first Vigilance Committee claimed the most perfect and powerful organization hitherto established in any country for the guarding of the public weal. It was as much a part of their self-imposed duty to prevent the coming to the country of new malefactors as to expel old offenders, and this required sleepless watchfulness and a detective police systematized with no small

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In the Matter of George Hopkins

H examination;

Hopkins refused to make any further statements alleging that he knew nothing further of the Matter.

The Executive Committee are of opinion that George Hopkins should be sent out of the Country being fully impressed with the opinion founded on Hopkins knowledge of and association with abandoned men, to be a dangerous man in our community and therefore present the case with Hopkins examination to the General Committee for action

The Committee, further recommend that the sentence of Banishment be passed on said Hopkins, under an injunction, that if he ever return to the State of California he shall be punished with death

Isaac Bluxome Jr.
Geo J. Oakes
John F. Spence
Stephen Raynor
George M. Farwood
S. Brannan
R. S. Watson
E. Gorham
G. E. Schmidt
James F. Curtis

San Francisco July 1st 1851
N. L. Bromley

skill. The regular police were resigning one after another from lack of pay for their services. The courts needed purifying and energizing; honest judges were proverbially incapable, the capable were dishonest, and it was no rare occurrence to see both knave and fool written upon the face of one single occupant of the judgment-seat. Legislators were likewise to be reformed. In the last legislature the San Francisco representatives were far below the country members in honesty and intelligence. The numbers, wealth, influence, and energy of the Vigilance Committee gave it almost unlimited power, and to its honor be it said, that power was always used with calmness, mercy, and moderation. Punishment followed closely the heels of crime, and villainy and vagabondage slunk away. Some of the bad characters sought health in the country; some turned honest miners; many preferred to put leagues of ocean between them and this new species of justice. This unheard of trampling on the rights of villains, this closing of their time-honored avenues of escape, this overthrow of legal fogyism, and the application of common-sense to the rulers of justice, was like an epidemic fatal to evil-doers. Law and order, a fat judiciary, and an inefficient police were to them far preferable to a hand-to-hand conflict with aroused and indignant virtue.

The action of the people in the execution of Jenkins was generally sustained by the press and by the pulpit. The Reverends Wheeler and Hunt, of representative churches, both preached sermons upholding the vigilant organization.

Says the *Courier* the 17th of June:

"To show how we are swindled out of our means by rogues, and how the rogues escape punishment, we give the following instance: A man by the name of George Spiers many months since was taken up for highway robbery. The recorder considered the proof so point-blank that he committed him. His case was carried before the grand jury, where he was indicted by the clearest testimony. In fact he was caught in the act. His trial, however, was postponed session after session, until the witnesses left the city, if not

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the state. The consequence was that when he was brought up for trial there was no one to testify against him. The district attorney, therefore, entered in his case a *nolle prosequi*, and the prison doors were opened, and he left his confinement to prey again upon the public.

"A few weeks since he was arrested on the charge of murder. He was placed in confinement on the most unquestionable proof of his guilt. The late grand jury, which unfortunately has been declared as illegally impanelled, indicted him for murder on the most reliable evidence. But this indictment, it appears, will amount to nothing. The last steamer carried away the only witness who can prove his guilt and convict him of the crime of murder. Of course our grand jury can never find a bill against him, and he will be permitted to run at large again. In this way felons escape, through the law's delay, to rob and murder us, and burn down our houses for the purpose of plunder. With all these facts staring us in the face we are told that we must permit the law to take its course—let criminal lawyers make from these criminals all they can, and give the felons opportunity to escape. We trust the people will be fooled and deceived no longer, but that they will execute without delay summary vengeance on every man the moment he is caught in the act of robbing, burning houses, or murdering. By so doing we will teach all public offenders that we will visit them with immediate death, and the courts that we have had enough of the law's delay."

"We should address ourselves to the task of purifying the courts," writes the editor of the *Herald* the same day. "Surely no new country ever exhibited such a judiciary."

"It is true," says the *Pacific Star* of the 25th, "that the power claimed and exercised by this Committee may be abused. So may all human power. The courts may abuse their power; the police theirs; and yet this is not a sufficient reason for withholding all power from them. Our reliance is in the honesty and integrity of the men who compose the Committee."

Again the *Herald* of June 21st panegyrizes the people:

"We must declare that never have we heard or read of an organization more thoroughly effective, an association of men so grandly successful in the object of their combination, as have been the Committee of Vigilance of this city. Pursuing their purpose noiselessly, earnestly, and unremittingly, they have effected in twelve days what the courts during the whole of their existence, armed with the thunderbolts of the law, have never been able to accomplish. They have palsied the hand of the assassin and the incendiary, and have encircled the criminals, who publicly defied the law, with a net-work from which all their efforts will not enable them to escape. Their vigilance never sleeps. Their investigations embrace all classes. Their agents are

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invisible and ubiquitous. The cribs which have been the nightly rendezvous and daily lurking-places of thieves of every description are all marked, and have received or will receive notice that their nefarious practices will not be longer tolerated. The most notorious scoundrels are ordered to leave the country, and many more are being watched for the purpose of being more thoroughly detected. Criminal correspondence and connection have been traced to men hitherto occupying respectable positions in society, and their exposure has been delayed merely to give time for the accumulation of proof or for their departure from the country. In fine the association have conducted their measures for the protection of the public safety with a cool circumspection, an earnestness, daring, and energy, that must command respect and even admiration. They now number over four hundred of the best men in the city. One fourth of this force is constantly on duty day and night, and each particular member seems to have devoted himself to the discharge of his duty with an enlightened zeal that has produced the most surprising results. The testimony already collected fills a large volume, and has occupied the exclusive attention of one man in transcribing. The Committee commenced with making a notable and severe example. It had the effect of proving that they were in earnest in the prosecution of the work they had undertaken. Since that time they have been employed in bringing to light the various places of resort of the criminals still at large. A large number of these cribs, as they are called, have been discovered, and after being duly warned have been closed."

It will be noticed that the editor speaks at random with regard to some of his facts, but in sentiment he is right. Their quarters in Brannan's buildings, corner of Bush and Sansome streets, being inadequate for the accommodation of their increased numbers, the Committee secured from Bullitt, Patrick, and Dow, the upper rooms of two large frame buildings on Battery street, between California and Pine streets. These were thrown into one and fitted up for the meetings of the general body, and separate rooms were partitioned for the smaller committees. The cost of alterations and furnishing was about one thousand dollars, and the rent was four hundred dollars a month. The Committee began to occupy these rooms the 18th of June, though the carpenters did not complete their work before the 25th. Of the sub-committee rooms there were four, furnished with tables, speakers' desks, chairs, and benches. Heavy bolts were put upon the doors, bells hung, and writing material, hand-

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cuffs, and chains supplied. There were also sleeping-places for the watchmen arranged. The 18th of September, when business had fallen off materially, the Committee, in order to reduce their expenses, again removed to the corner of Sansome and Sacramento streets, to the premises of John Middleton, where the rent was one hundred dollars a month. In these rooms matting was put upon the floors, the walls were papered, and the new quarters presented quite a respectable appearance.

Signals were now arranged, and a committee appointed to wait on the foremen of the California and Monumental fire-engine companies to ask the use of their bells for the purpose of calling the members together, to which request cordial assent was given. I shall speak at length hereafter of the committees of vigilance, modelled after the San Francisco Committee, which were established throughout California.

At this time it was difficult—so the defenders of criminals at all events made it appear—to obtain respectable jurors to sit in court cases, on the ground of sympathy with the vigilance movement. From the stand-point of to-day it strikes one as a little singular that the law should reject respectable men as jurors on the ground of their sympathy with justice. More particularly is the inconsistency of the thing apparent when we reflect that by every blandishment the men of vigilance had been urged to trust the courts, to act as aids and auxiliaries to the courts, and that when summoned to sit in judgment on such cases as they did leave to the courts they were told that they could not render an impartial decision. That such objections were made by the defence, rather than by the prosecution, is *prima facie* evidence that the objectors sought safety under cover of the law's subtleties, and for further defeating the ends of justice.

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CHAPTER XVIII.

ENTER JAMES STUART.

The most stormy ebullitions of passion, from blasphemy to murder, are less terrific than one single act of cool villainy; a still rabies is more dangerous than the paroxysms of a fever. Fear the boisterous savage of passion less than the sedately grinning villain.

Lavater.

James Stuart was a villain. A great villain. He was born a villain; he achieved villainy; and if villainy was not thrust upon him, he had no hesitation in thrusting it upon others. His childhood was instinct with misbehavior. Every wickedness the human heart is heir to has its redeeming quality. Through mismanagement on the part of nature all the virtues intended for use in the manufacture of James Stuart fell into the composition of some other mortal. There are gentle knaves and there are scurvy knaves; James Stuart was of the latter class. There are magnificent scoundrels and there are mean scoundrels; James Stuart belonged to the latter category. He was a *lusus naturæ* of the sulphurous order. His rascality was of the cold and calculating kind. All men were his friends, and all his foes. He would sacrifice a comrade as quickly as an enemy; with the utmost nonchalance he would see innocent Thomas Burdue suffer agonies of torture, for crimes which he himself had committed.

Often vice is only the decadence of some virtue; but in James Stuart obduracy and atrocity were weeds of indigenous growth. Such was the alchemy of his constitution that those ennobling influences incident to every environment, when infused in him,

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putrefied and infected the atmosphere in which he moved like a disease. Socrates had his Xenophon, Johnson his Boswell; but woe to the historian, abandoned of heaven, who must needs dive into the depths to chronicle the deeds of this most graceless of miscreants! One becomes as tired of his malefactions as were the Athenians of hearing Aristides called the Just.

Between *mala in se* or intrinsic badness, and *mala prohibita* or violation of conventionalisms, few make proper distinction. Indeed, there are many good men and women who will forgive a crime against morality sooner than a violation of good breeding. For the saintly caitiff hides his misbehavior beneath a fair complexion; with ill-gotten gains he buys honors and influence, and while indulging in low immoralities fails not to assume the character which will secure him further grovelling gratifications. In all this there is little of that ideal justice of which poets sing, wherein the good are always happy and the evil-minded unsuccessful. Religion fails to enforce correct conduct, and reason is not yet strong enough wholly to practise a utilitarian code of ethics. Different men, and ages, and beliefs, derive their rules of conduct from different sources. Conscience-making as a trade the gods find dull as the vision of science grows stronger. We of to-day seem near completing the circle of morality, seem to be nearing the point the savage started from, and referring back all obligation to the law of nature. The divine law of the ecclesiastic, the patriarchal law of the household, and the political law of society, however they may retain their hold on personal conduct, fetter mind far less than formerly.

Saint Paul found himself amidst a whirlpool of opposing forces, fleshly laws rising within him antagonistic to spiritual laws, the law of his members warring against the higher law of mind. James Stuart likewise found his unworthy craft buffeted by winds of

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doctrine strange in Sydney. The law that should hang Burdue in his place he could understand; he liked that. The regular course of things, the common statutory currents and legislative trade-winds, he could sail safely enough before; but these disinheriting guardians of political pets, of children of the corporation; these men of vigilance, who interpose their uncivil veto to the regular course of criminal law, what shall be said of them? They were, indeed, a flat imposition.

Stuart was not only able, but talented. A very mean man is seldom weak; more genius, more strength of character is necessary in order to become a great bad man than a great good man. The greater the cunning of thieves, the greater the skill required by the police. As civilization seems to intensify and render more acute absurdity and error, as well as reason and right, so the tendency of organisms, as they become more complex and refined, seems to increase in their capabilities of catching and eating, and in avoiding being caught and eaten.

Early in July, before the Burdue-Stuart mystery was fairly solved, the Vigilance Committee of San Francisco wrote the Vigilance Committee of Marysville that in their opinion Burdue was innocent. The Marysville Committee could not believe it, and begged the San Francisco Committee to take no steps which might lead to the letting loose of a murderer upon the community. Thereupon the San Francisco Committee despatched a messenger to Marysville to ask suspension of further action until the case could be thoroughly investigated. Francis Land, counsel for the condemned, proceeded to San Francisco for information. These several investigations were not without their effect upon the court. A new trial being granted, a *nolle prosequi* was entered. Burdue was discharged from the Marysville court and brought to San Francisco in the early part of August. There he was lodged in prison. On the 25th of August, after the evidence of Stuart and Whitaker had been

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given, Frederick Woodworth, George Mellus, Isaac Bluxome junior, and John F. Spence made affidavit before Ned McGowan, judge, of the fact that Burdue was innocent of the charges preferred against him. Thereupon an order was made by the district court, transferring the case to the court of sessions, into which Burdue was brought the same day and discharged from custody.

While Thomas Burdue was yet in San Francisco undergoing trial for the robbery of Jansen, that is to say, on the 28th of February, 1851, Frank M. Pixley came forward and made oath that the prisoner was not James Stuart, whom he had defended on several occasions, and whom he ought to know. Although this did not satisfy the court and jury sufficiently to secure Burdue's discharge, it made a mystery of the matter, and so excited suspicions of the possible innocence of Burdue that certain members of the Vigilance Committee determined to ferret the affair.

The shortest way to this end was to secure the person of the Sacramento shop-breaker, the Foster Bar murderer, the robber of Dodge, and the convict of the Sacramento prison brig—to secure the person of him who had committed these crimes, whosoever that might be; for at the same time that Mr Pixley swore Burdue was not the Stuart of these exploits, Dr Holmes of Foster Bar, officer Trueman of Sacramento, and others asserted that he was. Clearly amidst all this conflict of evidence the only way to solve the mystery was to find the real culprit. If Burdue was not the felon, who was he, and where was Stuart? Much depended upon the answer; the life, perhaps, of an innocent man, and the escape of a notorious offender.

Mr Pixley seemed to be the only one in San Francisco who was positive that Burdue was not Stuart, though at the second trial there were a number in Sacramento who were sure of it; and yet the jury convicted him. While Pixley did not scruple to clear

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the guilty if he could, for of such his law told him was its kingdom, yet he would not wittingly see the innocent suffer. Therefore, while he would not say or do anything which would implicate his client or lead to his arrest, he did not hesitate solemnly and positively to assure, not only the court but the Vigilance Committee, that this prisoner was not guilty of the crimes laid at his door.

Meanwhile the Marysville Vigilance Committee were skeptical as to Burdue's innocence; yet after the trial, and while he was there lying in prison under condemnation of death, the Marysville Committee came out nobly in his behalf, and between the two committees no less than fifteen persons were found who said that, whoever the prisoner might be, he was not the renowned James Stuart. But the law, roused from its lethargy by the murmurings of the people, was determined on action. Many respectable members of the commonwealth, advocating capital punishment, had banded in every town to execute it. Now if they wanted hanging done, the law could do it. So said its officers from the beginning. The whole country was excited on the subject; it was the thing to do to shed some blood. The autumn elections were approaching, and the hanging judge would be the popular candidate. Here was an opportunity too good to be lost. This man has neither money nor friends; even if he is not the guilty person, he ought to be hanged for looking so much like him and mystifying the court. Witnesses say that the real James Stuart is five feet nine inches in height, while the prisoner is but five feet six and three quarters inches; but then sorrow and confinement are apt to cause shrinkage, especially in one not guilty of the crime for which he is condemned. Besides, is it not better that an innocent person should now and then be put to death than that no example at all should be made? Thus within itself might the law have communed, judging from its actions.

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The San Francisco Committee were by this time thoroughly convinced of the innocence of Burdue, and they determined to redouble their exertions to find the real Stuart. They had his likeness in the unfortunate Burdue; their police and patrols had but to look upon him and then hunt Stuart. Country committees were placed in possession of the facts, and were begged to lend their immediate aid to save the innocent and bring to punishment the guilty. It was probable that Stuart was in or near San Francisco. He could not have left the state unknown, for every departure by water was watched, and he would scarcely travel overland, as the men of Sydney seldom migrated far from seaport towns. Besides, where would he find a better country, one richer in stealings or more backward in punishment? Then, too, by this time the acts of Stuart were so notorious, and his person so well known from Yreka to San Diego, that the only place at all tenantable for him was San Francisco. Therefore the sons of the Watchful Eye were charged by their elders to find the villain.

Wonderfully intricate are the ways that lead to simple ends! Here is all the country hunting this man, when one day he drops almost of his own accord into the maw of the new patent crime-crusher, and that for an offence which he did not commit. Honest men wonder at the foolishness of shrewd scoundrels; but may not scoundrels with equal propriety wonder at the foolishness of shrewd honest men?

Between ten and eleven o'clock on the morning of July 2d a house at the Mission was entered and a trunk abstracted. The owner, learning of his loss, raised the alarm. Just then it was ascertained that a tent on California-street hill, near where Grace Church was afterward placed, had been robbed. Three or four men set out in different directions in pursuit of the thieves and for the recovery of the plunder. They at once made their way up the hill and into the chaparral. The bushy suburbs of San Francisco were

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at that time infested with thriftless and shiftless human vermin. The town was not so large then as now, and it offered less security before determined search. The suburban districts, with their sand-hills and hollows thickly matted with small trees and bushes, beneath which, with a pair of blankets, one might safely and comfortably sleep away the summer, were the favorite resorts of thieves, who found in these quarters combined security and convenient proximity to fields of enterprise. The quail and hare of these parts were often surprised, and so occasionally were the thieves, although it was a most difficult place to hunt them in, as there were large patches of undergrowth which neither horse nor man could easily penetrate, and the surest way to investigate such spots was by sending in a well trained dog.

Somewhere near what is now the corner of Powell and California streets, some distance from the road leading from the Mission to the city, the owner of the lost trunk came upon one who excited his suspicions. He was first seen standing on a knoll, looking toward the city; he hesitated for a moment, then turned and hurried away in the opposite direction. Calling to some carpenters who were at work on the hill, the owner of the lost trunk briefly related the circumstances and pointed to the stranger. To a casual or unsuspicious observer it was an exceedingly commonplace thing for workingmen of the city strolling in the suburbs to meet one who from his dress might be a miner waiting for the sailing of the steamer or for the arrival of his wife, or who might be a country trader, or a ranchero, or any one of a dozen other respectable callings. The town was always full of honest strangers coming and going, paying their way, and minding their own business. In this instance the person suspected was wholly innocent of the theft; and yet there was that about him which assured the workingmen that they had found the one they sought; and the wanderer believed

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that they knew him, believed that his doom was sealed. But defeat is the last thing a politician or a thief will acknowledge to himself or to another.

Of medium height and symmetrical figure, with a bright burning eye, hissing speech, and biting smile, the stranger looked the accomplished reynard, which indeed he was, except when called upon to act the hungry hyena. Over a clean gray woollen shirt, covering also one of linen, he wore an English-cut coat, well fitting light pantaloons tucked inside his boot-tops, and a narrow-brimmed round-top hat. Fastened to his belt, and covered by his coat, were a bowie-knife and revolver of fine finish and in perfect order. In his dress, carriage, and general appearance there was that which, to a villain-hunter, immediately stamped him as his prey.

Witness the windings of the game now played. Here was a thief; so far the man who had lost his trunk was right. But this was not the thief he sought; of this the present guilty one was not aware. Accompanied by one of the carpenters, the owner of the lost trunk advanced and called to the man, who turned and walked toward them.

"Good-day, stranger."

"Good-day."

"Do you live about here?"

"No."

"What are you doing in this neighborhood?"

"I am on my way from the Mission to North Beach."

"This is not the road. Two houses have been robbed near by this morning. Where did you get the clothes you have on?"

"What! the devil! Who are you?" exclaimed the man, as his hand sought his revolver. But instantly two cocked pistols were at his head, and further movement of his hand behind him he well knew was death. It was the custom then for mechanics as well as others to carry pistols.

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"I know nothing of your robbery," said the man, as he threw up his hands. "These clothes I have worn ever since I left Sonora. I saw somebody with a bundle but a moment since disappear over yonder hill. I tell you I am not the one you seek."

"Listen to me, my friend," said the Mission man. "You say you have worn these clothes from Sonora, and that you have walked some distance this morning. That is not true. The weather is warm; the roads are dusty. Your boots are not sufficiently travel-stained, your linen shirt is clean, and the woollen over-shirt you wear carries yet the creases of its original folding. You must come with us to the rooms of the Vigilance Committee, and if you are an honest man you have nothing to fear."

On the instant the course he should adopt flashed upon the captured criminal. There are moments when the future rises before the mind like Aladdin's castle; when the ordinary paths of life are so hedged by untoward circumstances that some supernatural bound seems the only means of escape. Many were implicated with him, and these might rally to his rescue. Oftentimes before he had surmounted difficulties apparently superior to this, had lain in prison condemned to death, had stood beneath the gallows-tree with the rope around his neck, the central figure of an infuriated mob; and yet he was alive, and but a moment before free. At all events his present course was plain to him.

"I have often heard of your famous Vigilance Committee," said he, with a smile of sardonic sweetness. "I am anxious to see something of it, and will accompany you with pleasure."

Arrived at the committee room he gave his name as Stevens; afterward he wrote it Stephens. Those present recognized immediately the strange likeness he bore to the condemned Burdue, and to the descriptions of the infamous James Stuart. Mr Payran was in attendance, and he questioned him. Payran

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prided himself on his catechetical abilities. He was the Torquemada of the San Francisco Inquisition; and although in the exercise of the holy office he applied to his victims neither fire, nor water, nor the cord, yet as a rule he managed in the end to obtain a true confession, as I have said before. His test of truth was only his own shrewd common-sense, discrimination, and practical sagacity; and in his original and searching analyses of criminal character he had acquired a skill which seldom led him astray. It was his custom first of all to hold a private conference with his prisoner, during which he would talk with ease and freedom on subjects such as would likely most interest his listener, meanwhile watching his countenance, noting his every word and action; and thus he would continue to feel for salient points, and sound his deeper nature, until the responsive chord was struck; and when his victim's tongue was loosed he would listen attentively, merely dropping now and then a remark to keep it going; and this unruly member was the rope with which in the end the offender was sure to hang himself. Different cases he would treat differently, being governed severally by the nature of the case and by circumstance. In this instance he had a malignant subject; but such were his special delight. A first-class felon in a measure commanded his respect; to convict such an one he had time, patience, and money. A monster ruffian was easier treated than a petty vagabond; large crimes were wider known and more easily proven than small ones.

The executive committee was then convened and the prisoner put on trial. It was a matter of no small moment how this case should be handled. The greatest obstacle to the complete success of the Committee was the confederate crust that shut from them the mysteries of the class with which they were at war. One well aimed blow might shiver a score of tenements, brittle with fragile guilt. Possessed of

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numbers, money, strength, it was the earnest wish of these busy men of merchandise to achieve swift success and have done with it. Here was one, if it prove true, indeed, that he was Stuart, than whom there was not another on the coast as familiar with crime and criminals. This they knew from the reports of his exploits, which came in from every quarter. They had found something of what was called honor among thieves. Jenkins would tell them nothing, splendid brute that he was. But like many of our most respectable money manipulators who sail to the leeward of law, Stuart, perhaps, was one of those great rascals who was true to his confederates only so long as it was to his interest to be so. If the right chord was struck might he not tell all he knew?

With this object in view, the Committee determined to use extraordinary care in their investigations. At the trial John Sullivan testified that he had worked with the prisoner at Foster Bar and elsewhere; that he knew him as English Jim and Jim Stuart. The prisoner flatly denied ever having seen the witness, and told of himself a far different story.

This John Sullivan was now a boatman; he had assisted at the capture of Jenkins, and had since joined the Vigilance Committee. It happened that when Stuart was placed in confinement at the committee rooms Sullivan had been appointed to guard him. On taking his position, naturally enough he opened the door of the room to see what sort of wickedness was within. Crouching in the corner of the room, to his astonishment he beheld his old employer.

"Halloo, Jim!" he exclaimed. "How came you here? You needn't pretend not to know me!"

Shortly after Mr Schenck passed by. "Do you know whom you have here?" said Sullivan.

"What do you mean?" demanded Schenck.

"This is no other than English Jim, or Jim Stuart, in this room," replied Sullivan; "he who murdered the sheriff at Auburn. I was present at the attempted

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lynching at Marysville, when the rope broke and he escaped."

From another witness was obtained a statement to this effect: At Campo Seco early in 1851 had lived a miner in a cabin alone. He had accumulated a large bag of gold dust, and fearful lest his house should be robbed, he had buried it some three hundred yards distant in the chaparral. One morning about five o'clock he heard a noise, and soon discovered a man prowling about the premises. He ordered the intruder off, cooked his breakfast, and went to work. But thinking of the matter during the day, he became timid, and asked a friend to whom he explaimed matters to lodge with him. The friend said: "No, lest we both be murdered for your money; rather come you and sleep in my house." The man did so; and true to his forebodings his cabin was entered that night and the ground dug up both in and around it, but the robber found little to repay him for his trouble. This miner seeing Stuart at San Francisco pronounced him the man whom he saw at his house on the morning mentioned. The Mission man then gave an account of the arrest; but this amounted to nothing. Others were examined on different charges brought against him, but their evidence was of a character not satisfactory to the Committee, and the prisoner, so far as these charges were concerned, was evidently getting the better of the trial.

The Committee now retired for a time, and the matter was left more directly with Payran. Often one mind in the management of an intricate case is better than a score. In dealing with human nature the greatest experts often act upon instinct, and are unable to give a reason for what they do.

Fortunately at this time there were others in the city who had seen Stuart in some one of his many misbehaviors, and the condition of Burdue threw round the affair a lively interest, for it was now the openly avowed opinion of many that the Marysville

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judge had sentenced to death an innocent man. While talking now like a father-confessor, now as a judge, and then again as a pleasant companion, the wily inquisitor, unknown to his prisoner, sent messages to five or six of those whom he thought able to throw some light on the matter, requesting their immediate presence. The calls were promptly answered; and as these gentlemen arrived they were secretly admitted and shown into another room.

Payran began again to talk with the prisoner. He was now prepared to give his questions a more peremptory tone. Up to this time the man of sin and his interlocutor had carried on what would appear to an observer an ordinary conversation; yet each played a deep game. The stake of one was his life, of the other the lives of his fellow-citizens. Gradually nearing his point, Payran pressed his queries concerning the Jansen robbery, the Foster Bar murder, and the Marysville trial. The prisoner was at a loss to see how these remarks applied to him; he was not Stuart; his name was Stephens. True, he had come from Sydney; so had many another honest man. "Unfortunately," sighed Stuart, "there exists a strange prejudice in California against emigrants from British colonies. This is hardly just; there are bad men in all communities. The Pike county people, as they are called, that is to say emigrants from the Missourian frontier, are as bad a lot as any from Australia. In intelligence they are little above the beasts they drive across the plains; in filthiness both men and women are far below them. They do little scientific stealing, because they haven't the ability. Why, I have seen," continued Stuart warming, "I have seen their skin-cracked, tangle-headed, barefooted, bag-breasted, and alkali-seasoned women, who had driven their cow-teams from Independence, take from a store a whole barrel of salt pork, just as if they had bought it, carry it to their camp, and open and eat it before the very eyes of the trader. It is

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blockheaded and base bunglers like these that bring discredit on a country."

But this was treading on dangerous ground, and Payran failed not to note the enthusiasm of the accomplished professional in the recital. The prisoner was intelligent, of easy manner, and was a fluent and by no means uninteresting or illogical speaker. He persistently separated himself from the felon Stuart, and from all connection with wrong-doing; he had engaged in mining and trading in various parts with varying success, and was now about to stock a ranch which he owned in San Luis Obispo county.

Finally Payran squarely faced him and said: "Stuart, I am perfectly well aware that every word you have told me is false; but I shall get the truth from you before I am through with you." From the prisoner's eye there shot that strange sulphurous light peculiar to him. Upon the table near Payran lay a loaded revolver, and the inquisitor fancied he saw the felon's hand moving cautiously toward it. Without appearing to notice him Payran took the pistol and slipped it into the table-drawer by which he was sitting. Fixing upon him the most searching gaze, Payran said: "Do I understand you to affirm that you are not the man called James Stuart, and that you are not guilty of the crimes of robbery and murder?"

"Most emphatically I do," was the reply.

Payran then gave a signal to the sergeant-at-arms attending, and the witnesses, of whose presence up to this time the prisoner was ignorant, entered. In spite of his effort at composure, when he saw himself thus confronted the face of Stuart turned pale as death. There were standing before him George Mason, who had worked with him at Foster Bar, and who had testified at the Marysville trial that Burdue was not Stuart; also Charles Hughes, who was present at Stuart's examination before Judge Stidger for the robbery of Dodge and Company;

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also George Hunt, who said he could identify him by his speech alone.

"Stuart, do you know these men, or any one of them?" demanded Payran.

"I do not," gasped the unhappy wretch.

"Did you never see this gentleman before?" pointing to one of them.

"Never."

"Nor this?"

"No."

Then turning to one of the witnesses the inquisitor asked:

"Do you know this man?"

"I do," was the reply.

"State where and under what circumstances you have seen him."

"I saw him at Sacramento while undergoing trial for house-breaking."

Another witness was examined who saw him at another place; then yet another. Meanwhile passion, of that sanguinary hue which defies control, mounted to the prisoner's face, and with glaring eyes and that hissing voice of his thickened with the throes of emotions maledict, he cried:

"Well, then, may the devil damn you all, I am James Stuart! Now do your worst!"

Sinking back into the chair from which he had risen, the prisoner was an altered man. The gleam of mingled assurance and defiance that so lately played about his face had entirely disappeared, and in its place sullen hate had settled. The last few words which he had spoken was as the yielding up of his guilty ghost.

"Stuart," said Payran, "you have got to die, and speedily. Of that you may be assured; no earthly power can save you. It is in no spirit of revenge or hate that we shall hang you. Between such as we and such as you there must of necessity be war. If all were vultures there would be no victims; all may

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be good, but all cannot be bad. We do not mean always to live the prey of such as you. We must defend ourselves. You have played your game, and have played it well; you knew the risks of it before you took them, and up to this time you have been remarkably successful in your escapes. Now your time has come. During your few remaining hours in the body everything shall be done that we can do to minister to your temporal and spiritual interests. Any letters which you may desire shall be written, any business affairs which you may intrust to us will be executed more honestly, perhaps, than you would attend to our business. One thing we would like from you—a full and free confession. This can be no loss to you, while it may be a gain to society."

"But, sir," said Stuart, "this is no trial; you would not dare to execute me on the strength of this unlawful farce!"

"Sir," said Payran, "we, the people, are superior to law; entertain no hope; rest assured you shall never leave our hands alive. We will give you a further trial if you wish it. You may have your counsel, summon your witnesses, and prove yourself innocent if you can. You know whether such a course would avail you anything; we think it unnecessary."

While Payran was speaking, and for a few moments after, Stuart sat stooping with his face buried in his hands. Finally raising his head he said:

"Well, I will do it, damn 'em; there are some of them I will get even with anyway!"

Frank M. Pixley, formerly counsellor for Stuart, was now attorney for the city of San Francisco, and he deemed it his duty to do something. First he asked the supreme court to grant a writ of *habeas corpus* to bring into court James Stuart. The writ was issued, but, strange to say, the sheriff seemed in no haste to make return. Then Mr Pixley rose in court and requested that a rule on the sheriff be

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issued to make his return, which was done. This was the 9th of July.

The same day the sheriff filed his return, endorsed as served by leaving copies with several members of the Vigilance Committee. Again rose Pixley in court and begged another *habeas corpus* writ to bring thither certain members of an organization styling itself the Committee of Vigilance, to show cause why they illegally detained the body of James Stuart. The writ was granted, and returned by the sheriff, with J. L. Van Bokkelen, W. H. Jones, A. J. McDuffie, and other members of the Committee in answer. These gentlemen filed affidavits that the body of James Stuart was not in their possession, and was not at the time of serving the writ; whereupon Mr Pixley made a motion to discontinue proceedings, which was readily granted, and the gentlemen were discharged.

This was well enough so far as it went, but it did not satisfy Mr Pixley. He now filed an affidavit stating that, to the best of his knowledge and belief, the person of James Stuart was in the custody of the Committee of Vigilance, in the building then occupied by them, and asked that a warrant be issued to bring Stuart into court. The warrant was issued immediately. The sheriff set out upon his mission. Members of the Committee smiled upon him and offered their assistance. The owner of the buildings accompanied him, threw open all the doors, bade him carefully examine every nook and corner, and bade him search until his heart and Pixley's were satisfied. And so he did, he and his deputies, but they found nothing. There were the affable members of the alleged Committee, reading, chatting, smoking, apparently enjoying themselves as at a club. But no James Stuart was forthcoming. And so the law's messengers reported to their masters. And Pixley was angry. He desired to make the Committee responsible, but the court ruled that with the Vigilance

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Committee, as such, it being an unincorporated body, the law had nothing to do. Then went Pixley for the members again. McDuffie's name was not down in the writ, so he was discharged. Jones likewise was allowed to depart. Van Bokkelen swore that he had not then, nor did have when the writ was served on him, nor did he ever have, the custody or control of such a man as James Stuart. Pixley lifted high the arm of law to let it fall on Van Bokkelen, for he was sure that if he would he could touch the spring which should display the coveted carcass of the murderer. But no; he would be magnanimous; he would not crush one man for the sins of many. Clemency engendereth complacency. Pixley was pacified.

Now what had done these men of work and merchandise, to whom the *habeas corpus* was the most holy of writs, and disobedience thereto more fearful than the unheeded fulminations of the Vatican to image-worshippers? Nothing. They knew nothing. It was their business just then to know nothing, and they did it well. Unwilling to oppose that wise provision of our constitution which secures to every citizen the right when arrested to be brought before his accusers; unwilling to disobey any mandate of legalized authority which they could consistently with their predetermined course avoid, they did the best possible thing under the circumstances—they delivered themselves from temptation. They would not hesitate a moment to deny the service of such a writ should it be necessary, for they had staked their lives upon the success of this crusade, but it was better not to be obliged to do so. Knowing that the *habeas corpus* man was coming, they simply spirited their prisoner away. Bluxome and Oakes took him first, and throwing over him a long cloak and a slouched hat, they thrust him into a carriage and drove away, no one but themselves at the time knew whither. The moment it became necessary for them to know nothing, two others as trustworthy as themselves were sent, having

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always at their command guards sufficient for the purpose, and instantly Stuart was removed to a place unknown to the first confederates; and so he was passed from one to another, the one having charge of him to-day not knowing his whereabouts to-morrow, until the ruffled dignity of the law was soothed; and then they brought him back to the committee rooms.

Mr Bluxome informs me that on setting out with Stuart two pistols were shown him, and he was told that if he attempted to escape he would be shot. He was first taken to the building of Endicott and Oakes, on First street, between Market and Mission. Mr Endicott, then alderman, was absent at the time. When he came home and found there the well guarded criminal, he proceeded to the committee rooms and said: "This will never do! I am a city official, and have taken the oath to support the government." Reuben Maloney, a member of the first Committee, then said: "I will take him." Among Reuben's miscellaneous acquaintance was a female friend. In her house the prisonless criminal, still strongly guarded, was lodged. But Aspasia became alarmed at her position between the law, which she herself loved not overmuch, and the facile object of its vengeance, who might slip his chains, and murder and rob her at any moment. She told Reuben that their guest must depart. So Stuart was taken elsewhere, and was kept moving from one to another, as before stated.

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CHAPTER XIX.

EXIT JAMES STUART.

So, naturalists observe, a flea
Has smaller fleas that on him prey;
And these have smaller still to bite 'em;
And so proceed *ad infinitum*.

Swift.

When the time came for taking Stuart's confession the prisoner seemed more eager and animated than any one present. To him there was no little gratification in the thought that if he must die, he died at least for something, and the world should know it. At his last lifting, all the people should raise their eyes and behold the greatest of scoundrels; the journals of the day should be filled with his exploits; the common ranks of thievery should hang their envious heads; and thenceforth all mankind should know that in the vocabulary of renown next to honest greatness stands the greatness of dishonesty.

Stuart now regarded the making of a confession a privilege. "I myself assisted," says Coleman, "as one of the executive committee, in hearing and recording this confession; we sat through the night, and until the morning sun shone in at the window, before it was completed. He went through the whole range of his many rascalities, gave vivid descriptions of his adventures, entering with great zest into the details; and it was curious to see his eyes brighten and twinkle, and a smile play round his facile countenance, when describing his best successes. He threw off all restraint, and recounted his jobs as if bringing to light a brilliant record which had heretofore been

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kept necessarily in the dark. His guilt being so plain, and the volume of it so vast, it seemed as if the life of one man was insufficient to atone for it all."

"It now came out," says Schenck, "that Stuart was a member of a gang of nine, who had been concerned in various robberies and assaults, composed of T. Belcher Kay, who was port-warden at the time, John Morris Morgan, Whittaker, McKensie, Jack Edwards, Jim Stuart, Benjamin Lewis, Jimmy-from-Town, and one other, whose name I do not now remember. They had a plan to rob F. Argenti's bank, and also F. W. Macondray's store. Kay was one of the leading spirits, and by virtue of his office of port-warden he had occasion to visit frequently Macondray and Company, and he took these opportunities to ascertain what money was in the safe. The book-keeper suspected something and advised a stronger guard; and there were fourteen persons there the night the gang had appointed to rob the building. The band at one time rented the Alhambra, corner of Kearny and Washington streets, opposite the El Dorado building, a gambling-house which stood on the south-east corner of the same streets, and opposite also the building used for the custom-house after the fire of May, 1850, which was on the north-west corner of the two streets, and in whose vaults were then two or three millions of dollars. John Morris Morgan, a member of the gang, was a brick-mason, and had worked in the construction of the vaults of the building to which the custom-house was removed. The plan was to cut a trench, underneath the street, from the Alhambra building to the custom-house building for the purpose of the robbery, and then carry another trench from the custom-house across to the El Dorado. After the proposed robbery had been accomplished the first trench was to be closed up and the other kept open to avoid suspicion." Of this fraternity Stuart was the leading spirit.

But I will let the man speak for himself. His

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career vividly illustrates the high-pressure principle of crime in California during this reign of terror:

"I was born in Brighton, England, in March, 1820. When I was sixteen years of age I committed forgery, and was banished to New South Wales for life. My friends interceded and procured my emancipation. From there I went to South Australia; finally reached Panamá, and shipping in the *Tennessee* came to San Francisco in the spring of 1850. I immediately left for Sacramento; then went to Marysville, and next day to Foster Bar. There I joined the Rock Mining Company and worked with them for a month. I hired Sullivan, the witness who appeared against me, and we worked together for some time in various places. I bought a claim of a mining company for which I paid $300; I also bought a life-boat for $400 which was used on half shares as a ferry-boat by another company. I lent the Missouri Company $300. Down the river I had a row with Colonel Prentiss, and left the place for Foster Bar, where I determined to locate. From my ferry-boat I was receiving about six dollars a day, and the claim for which I paid $300 was yielding me from ten to twelve daily. At Foster Bar two of us made a garden, and that paid us well. I built myself a house, where I had a store, with Bernard Feather, a German, as my partner. I also commenced building the largest house in the place, for a boarding-house, but never finished it. I was already tired of this quiet uneventful life. The Missouri Company closed their business and left the place without paying me. Of one of the company, Daniel Casey, I bought everything they had left. I searched their house, and finding a trunk open, full of clothes, I appropriated the contents to my own use. I was afterward arrested for having stolen the trunk; an unjust accusation, for having bought all that was in the house I considered the trunk my rightful property.

"The night after I took the clothing I went to Captain Dodge's house and played monte, where I lost $200. I felt that I had been cheated, and determined that I would get even with him. I watched him closely that night from an adjoining tent, and saw him put his money into a chest. Waiting until they were asleep I entered the tent and carried off the chest. I found $4300; there was one piece of gold worth $1568, another worth $738; the rest was in dust, with the exception of about $600 in silver. I took it all home, secreted the most of it in my garden, and resumed my work as usual. In about ten days I was arrested for having stolen the trunk, and paid at once the $500 bail. Three days after I was again arrested on a charge of grand larceny for stealing the $4300, and was committed to jail in Marysville. There was great excitement; the mob was determined to hang me, but the judge had me safely guarded by sixty men. The next morning Captain Dodge came to me and said if I would give him the money he would let me off and see that I was not molested. I was uncertain what course to pursue; but when I was told that his wife and children were suffering at home I concluded to give it up, all but $150, which I said I had lost. During the remainder of the day I stayed with the sheriff, Edward Barr; sold all my things immediately at auction, depositing the money, $170, with him. In the evening the sheriff went out to collect some of the money. While he was gone his cook advised me to

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leave the place at once. I told him I couldn't go without money; the cook replied that if he was in my place he wouldn't risk delay a moment. I started at once for Sacramento, walking three miles. I had no money to buy a horse, so I stole one. The next day I sold it in Sacramento, where I remained a fortnight. While there I became acquainted with two or three Americans and one Sydney man, whose sole business was to steal horses and mules, which I would sell for them. I think I knew of every robbery committed in Sacramento while I was there. The names of the horse-thieves were Dab, James Peate, and Johnny Griffiths. We heard that there was a brig in the river with about $20,000 on board; so Griffiths, Edwards, Brown, and I went on board and got all the money, which was only about $1200. The next day we agreed to come to San Francisco. A man came down with us called Jimmy-from-Town. He had robbed a Spaniard on the river of thirty ounces of gold, which he divided among four of us. We came together from Panamá on board the *Tennessee*, and I stowed him away on the passage. The same night we went aboard the *J. Casket*, Edwards, Brown, Smith, and I, and robbed the vessel. We had some hard fighting to do; the captain was desperate, and we fought him until we left him almost dead. During the fight his wife came out of the cabin with a sword in her hand, which I took away from her. I acted as captain. We were all masked. We searched the cabin, and obtained from the captain's wife all the money on board; also, at my request, she gave me an Allen six-shooter. The woman begged I would not take her husband's life. I said I did not want to do it if he would be quiet. I was about to take a splendid gold chronometer watch. She hoped I would not take it as her mother had given it to her. I said on those conditions I would not take the watch. The others kicked up a row for not taking it, but I told them that I was master; that they had made me so and I would do as I liked. Before leaving the vessel I tied the captain's hands behind him, shut him up in the cabin, and told his wife not to speak for two hours, as I should not leave the ship. We found that instead of getting $15,000 or $16,000 we had got only $170. When the captain's wife gave me the money she said that they had sent it nearly all home on a previous packet, or we should have got it all without doubt. The captain advertised a loss of $900. We stopped in San Francisco for five or six days. I spent one night in Grayson and Guild's store, where we attempted to get the safe containing the money, but found it too heavy to move. Then I went to Sacramento alone, and stopped at Moore's house, on L street. Did nothing but play cards, and I won a great deal of money. I sold horses and mules, as they were brought in by horse-thieves, under the name of Campbell. Moore died, and I bought his wife out for $150. All the goods stolen in Sacramento were brought to this house. John Griffiths, John Jones, Bill Nelson, and Old Jack were my boarders. A few days afterward Griffiths was arrested for picking a man's pocket of $300 in an auction store. On Monday he was committed to the prison brig with his bail placed at $1500. They were kicking up a row in Sacramento and wouldn't go straw bail, so to raise the money I took a team, loaded it from my house with stolen goods, and started for Mormon Island, where I sold everything. Then I returned to Sacramento, and obtained an order from the sheriff to go on board the brig and see Griffiths. I found that on the night before, in trying to

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escape with irons on, he had been drowned. While I was away my house was robbed of everything; I did not think it worth while to open another house, and went to live in a small house near the burying-ground. A few days afterward I was arrested for house-breaking. I employed Mr Pixley, who promised to get me out of the scrape for fifty dollars. I told him I was guilty. Old Jack swore false, and I gave him twenty dollars. About a week or ten days after, was arrested again for breaking into a house in a lumber yard. I was very nearly shot there; a bullet went through my hat at all events. I got taken and committed aboard the brig for trial. A night or two before, Mat Hopword, from Sydney, or Big Brummy, as we call him, robbed a house with me, where we got between eight hundred and nine hundred dollars' worth of property. Employed Mr Pixley again, and paid him fifty dollars, and gave him fifty more for getting off Big Brummy, who had robbed a woman. Two days after I had been on board the prison brig a constable came down from Auburn and identified me as the murderer of Sheriff Moore of Auburn. Two or three hours afterward two more constables came on board, one from Foster Bar and one from Marysville, and identified me as having murdered Charles Moore. One had a warrant; they went to Judge Sackett, who gave them an order to bring me ashore. I was taken to the judge's office; Mr Pixley appeared for me, and would not allow the judge to examine me. I was then sent on board the brig again. The next morning the sheriff came for me, and Mr Pixley told him that his warrant was not legal; that he could not take me without another warrant from Marysville; so the sheriff went after it. I then gave Mr Pixley my bag of gold dust to weigh out six hundred dollars, and an order for one hundred and thirty dollars, which he told me he had got and would pay me next day. The orders I gave Pixley were in the name of James Campbell. That night I made my escape from the brig. I walked the next day to Dry Creek, half-way to Stockton; when I reached Stockton I disguised myself and came to San Francisco on a steamer; this was about the middle of December. I stopped at Edwards' house in Sydney Valley.

"I never went out of the house during the day. At night I went to Port Philip House kept by McCormick and Whittaker. At this time Jansen lived next door to Whittaker, We heard that there was a safe in a butcher's shop in Broadway with eight or nine thousand dollars in it, so Whittaker and I, with Edwards and George Adams, took the window out, moved the safe into the street, but could not get it any further. Our next attempt was Minturn's; Belcher Kay said there was a great deal of money there. In this mess there was a large number of us. Edwards, Whittaker, George Adams, Edward McCormick, Belcher Kay, Bob McKensie, and I took a boat, fall and tackle, made shears, put a feather-bed in the boat, augers and saws, and all went pretty well armed. Three or four of us got inside the building and moved the safe a little; made a few auger holes in the floor, intending to cut the floor away; some one came to the door, a false alarm, and we had to run. McKensie spoiled it all by not knowing his instructions; he gave wrong signals, and we jumped into the water and ran away. With such a big haul we should not have stirred for one man or two. Belcher Kay watched outside. The next thing was a jeweler's shop; Belcher Kay had examined it;

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he said there was twenty or thirty thousand dollars in diamonds there. Edwards and I went at night and looked at the place; gave my opinion that we could not do it; too much risk, as there were four or five men in the shop below, and so we gave it up as a bad job. The next thing Belcher Kay got for us was Macondray's store; he had been watching it for a month, and he told us that there were three safes and a vault with lots of money; as much as we could take away in a boat. We came up in the night to do it, but some of the men backed out; and considering there were eleven men in the building we all gave it up.

"The next night Whitaker informed us of Jansen's place. He said that when Jansen moved he had a bag which he supposed contained ten or fifteen thousand dollars; we agreed to go and get it. Jim Briggs and J. M. Morgan, who had just come from Monterey, and Whittaker, Edward McCormick, Billy Kewes, Belcher Kay, and I, who had been together for ten days, were in this job. McKensie had had a falling out with Morgan and Briggs, and had to leave. Morgan went into Jansen's store first; the rest stopped in the road. Whitaker and I stood at the window during this time. I thought he was too long and could get no money, so I went in to help him; I got half-way up the shop, behind the counter; I heard Jansen ask Morgan what he wanted there; Morgan said he wanted to look at some blankets. Jansen turned around and saw me behind the counter, and I also told him I wanted some blankets. He stepped about two yards to show me the blankets, when I hit him on the head with a slung-shot and knocked him down. I then left Morgan to look after him while I searched for the money. I only hit him once. I opened a desk and took out a shot-bag containing money. Both Morgan and I had cloaks thrown about us as a disguise. I carried the money home to Sydney Valley. There was one thousand five hundred and sixty-eight dollars in gold coin. We divided it among eight, making a hundred and ninety-six dollars apiece. We went down town and spent a few hours at Mrs Hogan's, on Sansome street; her house was a crib for stolen property; she wears my picture, and knows all about our motions, but Mr Hogan was innocent. The next day there was quite a fuss about town made over Jansen's assault and robbery. We did not commit any more robberies while the trial of the men arrested for striking Jansen was going on, as we did not wish the men hung, knowing that they were innocent. We would have shot fifty men rather than have had them hung. We agreed that if those men were hung, which we expected they would be, we would fire the town on Sunday night in several places.

"A few nights after we agreed to rob a bank kept by Beebee, Ludlow, and Co., on Montgomery street. In this we were to be assisted by Bob McIntyre and Andy McCarty. They told us that whenever we were ready they would take the watch off their beat. These police-officers used to know all we were about those days. We tried two nights; opened the outside door by false keys. Watched it two days, and concluded there was not money enough to pay for attempting the robbery, as we observed the porter come each morning from Argenti's with bags of money deposited the previous night.

"The next night we went to Young's Bank, next to El Dorado, in Washington street. Morris Morgan helped build the money vault, and gave us the

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information. Went down El Dorado steps, opened the door with false keys; entered and found two beds; discovered too many people sleeping about there, considered it too dangerous, and gave it up. Belcher Kay was an accomplice; there were eight in the gang; Kay generally was outside watching. We have had an understanding with police-officers McIntyre and McCarty for a long time; they were concerned with us in the robbery of Young's Bank.

"The next night we stole a small safe out of Emerson and Dunbar's auction store; this was Sunday night; there was but twenty-four dollars in this safe. Adams stepped out at the time of Minturn's robbery.

"The following night we stole a safe from Gladwin and Whitmore; took it up the sand-hills, but were discovered before we had broken it open. Here we lost all our tools, which were worth five hundred dollars to us. Then I went to Mrs Hogan's house. Bill Hewes went home that night. Not liking to see the men go to the watch-house, I wanted the rest to come and free them by force; but they refused, thinking that by employing Mr Parburt and other lawyers they would be cleared. The next day Morgan was acquitted and Briggs committed to jail.

"The next day I went to Gold Bluff in the schooner *B. F. Allen;* I was twenty-seven days on the passage to Trinidad Bay. I there saw Bob McKenzie, Dab, the horse-thief, and Jem Peet; they came from Oregon. They said that five horse-thieves had taken about sixty horses from Sacramento City to Oregon, and there sold them. I found Trinidad to be a bad place for me. I played cards with Dab, and won all his money, about three hundred dollars. I then came back in the *B. F. Allen*, and paid the passage of Dab and Peet also to San Francisco. We arrived in San Francisco on Sunday, when Dab threatened to inform on me if I didn't give him money; so I gave him fifty dollars.

"I went to James Kitchen's house, and sent him on board the schooner for my bed and blankets. The same day Dab and a policeman stopped me on the street; the policeman wanted me to go to the recorder's with him. I drew my pistol to shoot him, and he shoved off. There were many people around, and I gave him one hundred dollars to quiet him. I then went to Kitchen's to stop that night. I went to see Mrs Hogan, who told me that there was a warrant out for Whitaker and Long Charley, for robbing a man in her house of fifteen thousand dollars; she said she had secreted Whittaker at the Mission, and advised me to leave the town, as the police were searching her house.

"The next morning I hired a horse at a stable and rode to Monterey. At this time I had just taken the name of Carlisle, having previously been known as Campbell. I went to Monterey on purpose to attend the trial of the men arrested for robbing the Monterey custom-house. I went to the watch-house and saw the prisoners. The second night my horse was stolen from me. Dick Osman was first put on trial. Parburt went down from San Francisco to defend him, and I appeared as a witness in his favor. Whittaker was also at Monterey; Briggs was then in custody; Kitchen arrived at Monterey in the steamer. We all knew the parties were guilty. Although they took thirteen thousand dollars down from San Francisco, all that was robbed was eight thousand, though Randall said that he had lost thirty thousand. Parburt, McDonald, and Judge Merritt were counsel for prisoners, and Colonel Weller,

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Bolts, and Wallace for prosecution. There was a great deal of false swearing and bribery. All the money was taken from the prisoners; the court charges, amounting to one thousand dollars, were first deducted, and the balance, twelve thousand dollars, was equally divided between the prisoners and prosecuting counsel. The prisoners then paid their own lawyers. Randall received one half and the prisoners the other half of the twelve thousand dollars. Ryan, Morgan, and Tom Quick were then in jail, but Osman was tried and consented to the division. The sheriff of Monterey received seven hundred dollars and a gold watch for packing the jury and for other services. Morrisman, a juryman, received one hundred dollars from the prisoners, which was paid after the trial. Dennis McCarthy, the constable, received one hundred dollars from the prisoners for false swearing. He first swore for the prosecution, and then swore back in favor of the prisoners. Jim Carson, a juryman, held out for guilty; he was bribed by the prosecution. The judge knew nothing about all this. Parburt told me to let the prisoners out of jail; I broke the door down and they were free.

"Then I started on foot from Monterey for the southern mines. When I reached San José I stole a horse, saddle, and bridle, but was captured near San Joaquin. I got in a row with eleven Mexicans who took my gun and said that I had stolen their horse; they took me back to Livermore Pass. I gave them my watch and chain to release me, and started on foot for Sonora. From there I went to Sullivan's and worked about a week, but did not like mining. Then went to Mariposa where I worked for five weeks; there I met two Americans who knew me; I did not think myself safe and started on foot for San Francisco.

"I arrived here on Tuesday night; I saw Kitchen in the El Dorado; went to his house where he used to live; all my things were left at Kitchen's, and are still there. Wednesday morning I arose and went to the Mission to see an acquaintance who lives at the bakery; this acquaintance wished me to rob a Spaniard's house at the Mission. I went into the Mansion House, saw the safe, and said I would see him again about it. I took the hills on the way back from the Mission to avoid being seen, and was arrested on the sand-hills doing nothing; I was on the way to North Beach.

"In coming from San José to San Francisco last January or February I came in the steamer *New Star*, with one Smith, who was afterward shot in Sacramento while robbing a house. We went from San Francisco to San José on purpose to rob the churches of the silver and gold images. We were told that there was a gold image weighing ten pounds, but we could not find it. We got stuck on a mud-flat on the passage. In the morning we were called into the cabin and told that a passenger had been robbed of one thousand dollars in gold dust. They took my gold dust, amounting to about six hundred dollars, and that of another passenger; but I did not commit the robbery nor know anything about it. Before leaving the *New Star* I threatened the captain that I would report him if he did not give me back my money; he was afraid I might make him trouble and gave it up.

"On arrival here I advised robbing the *New Star*. I met Teddy McCormick and John Edwards, and went down to the steamboat. I went on board, opened the window, and robbed the desk of about two hundred and fifty

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dollars. I have worn a *serape* and have ridden horseback in San Francisco. Jimmy-from-Town robbed Dow's safe and blew it up with powder. Have heard hundreds remark that the day would soon come when this country would be taken by the Sydney people."

In addition to this story of guilt is the testimony of Joseph Hetherington, who took charge of Mrs Hogan's house at her husband's request while he was at the mines. Whitaker boarded there during Mr Hogan's absence. Whitaker gave him this account of the murder of Moore, the sheriff: He said that Stuart, with two Americans, was travelling from Nicolaus to Marysville; they had but little money, and they concluded that they might as well be dead as to be without money; so they agreed to rob every man they met until they secured twenty thousand dollars apiece for themselves. Sheriff Moore happened to be the first man who crossed their path, and Stuart at once shot him. It was for this murder that Burdue was convicted before Stuart was arrested.

Stuart's confession raised quite a commotion among the fraternity. While the professionals, whose sombre deeds were lighted by the people and the press, scattered, respectable malefactors as a matter of course loudly proclaimed their innocence. I do not doubt that Stuart exaggerated where he entertained enmity, or that he lied whenever it suited him. He was bad enough to do anything, and he was strong enough to do much. Yet in false charges there are usually some facts. A lie seldom rests on no foundation; or if it does, the victim of it is indeed a sufferer, for such is the construction of men's minds that he can never wholly escape the effects of it. Evil is never spoken of the innocent whom the slanderer does not know. Vice, like fire, is a dangerous plaything. When the clouds drop pitch, you may look for the white-robed at home.

Scarcely had the clock told nine on the morning of July 11, 1851, when the Monumental bell struck

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for the assembling of the general committee at their rooms on Battery street, and instantly the streets were filled with citizens hurrying thither. So much time was occupied by the Committee in their grave deliberations that the crowd, congregated in knots about the building, became impatient. Those who knew nothing of the proceedings within began to think it but an ordinary conference, and about noon dropped away to attend to their respective affairs.

The minutes of the general meeting, Selim Woodworth in the chair, are brief and to the point. On motion the evidence in the case of Stuart was read. Questions were then put, and it was determined that the prisoner was guilty of crimes which rendered him liable to the punishment of death; that he should be hanged; that a clergyman be sent for; that the execution take place at two o'clock; that the executive committee should make the necessary arrangements; that no person be allowed to leave the room; that the prisoner receive his sentence. Half an hour after, the sentence of death was pronounced upon the prisoner, who during the final meeting, with imperturbable coolness, sat manacled in an adjoining room. Once or twice during the awful three hours thus employed he placed his fettered hands behind his head, yawned, and exclaimed, "This is damned tiresome; give me a chew of tobacco!" In this request he was indulged. Being brought into the council-room to receive his sentence, he displayed the same apparent nonchalance. Two hours of grace were allowed him in which to prepare for eternity. Stuart received the clergyman, Mines, with great respect; though at first sullen he yielded to the influence of the hour, and at last acknowledged the justice of his fate, declaring that he could die without resentment toward any one. At the expiration of two hours the prisoner was brought out, bound. He was a man five feet nine inches in height, well proportioned, about thirty-one years of age; his hair was brown; he wore a mustache and

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whiskers; his forehead was broad and his face had an intellectual cast; he had an aquiline nose, compressed mouth, and slightly projecting chin. At the time of his execution he was neatly dressed in a dark jacket, white shirt, brown pants, and patent-leather boots. During the time while the doomed man was closeted with the clergyman his four hundred judges sat in the committee room like statues, solemn and silent. Scarcely a word was spoken, and the gravity of unpleasing but inexorable necessity was depicted on every countenance. One of their number went out and addressed the people before the door, telling them that guilt of the deepest dye had been proven without a doubt; that this proof was backed by the prisoner's confession, and that the sentence of immediate death had been pronounced. The speaker then asked if the proceedings met their approval. Affirmation was promptly spoken, with but three dissenting voices.

About half-past two the Committee emerged from their rooms with the prisoner, bound and supported by two members. Arm-in-arm, eight abreast, with weapons ready, they marched in platoons, with slow and measured tread, along Battery street to Market-street wharf, where stood a derrick ready for their purpose. When the front of the column reached the wharf it opened, parted to each side, and the two hundred body-guard passed between the two lines, which immediately closed in the rear and locked arms, forming an impenetrable barrier between those performing the ceremony and the people, who were thus prevented from crowding the wharf. The bravado of the man now left him. Many times he had regarded the approach of death, but never had the grim monster stared him in the face as now. For a moment, as he looked at the gallows prepared for him, and as he felt the solemn hush pervading the assemblage, his strong frame shook like a leaf; but immediately recovering, he thenceforth acquitted himself manfully. At his own request he was not blindfolded; reiter-

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ating a few words of penitence, and acknowledging the justice of his sentence, he closed his eyes. One end of the rope was quickly adjusted round his neck, the other thrown over the derrick and seized by twenty hands, which quickly jerked the criminal in air, where he was suspended for half an hour, until long after life was extinct. Throughout the entire proceeding the most perfect order prevailed, no resistance being offered by any one. The solemn stillness of the people, as they stood with uncovered heads, attested the grave importance attached to the execution, indicating no feeling of revenge, but the consummation of simple justice. In the harbor flags on the vessels had been hoisted and cannon fired.

As I have before remarked, there was no military organization in the Committee of 1851, as there was in that of 1856, but a police system only. At the time of Stuart's execution the general committee resolved itself into an inpromptu military association, consisting of companies or squads under their respective captains, in all about three hundred and eighty men. Thomas J. L. Smiley, a tall, straight, fine-looking man, no less able in counsel than efficient in action, commanded one company, with his business partner, John Middleton, acting as lieutenant. While Stuart was hanging, and before life was wholly extinct, Gallagher, the coroner, came in hot haste, elbowing his way through the crowd until, reaching Smiley's locked line, he paused, and throwing into attitude and speech the half of Ireland's dignity, he cried:

"I demand permission to pass!"

"Who are you?" asked Middleton.

"You know well enough who I am," said the corpse-tender; "I'm the coroner."

"The devil you are!" replied Middleton. "Well, Mr Coroner, you don't pass this line until that fellow is a fit subject for your administration."

As we have seen, all these proceedings were characterized by sobriety and solemnity. Yet peculiar to

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the people and to the time was that spirit of manumission from ancient superstitions, so inseparable from their acts, that while engaged in the most serious affairs they could not behave otherwise than in their natural manner.

I have said that James Stuart was a great scoundrel—a mean scoundrel. Yet the more I investigate his character the more I am astonished at his coolness, courage, and ability. Had the stream of his life been directed into honest channels he would have been no less prominent for good than he was now for evil. If in the eighteen months' work, the account of which he recited with such vivid exactness, the same energy and talent had been displayed in some honest direction, as is always true in the economy of crime, the results would have been no less beneficial to himself and to society than his actual course was detrimental. When one lays aside all hope of life, and walks the street as already a dead man, there is apt to be very little acted for effect; or if so, then doing for effect is surely a dominant quality of such a one. Now when Stuart knew his time had come, villain as he was, I can but admire his conduct; for prominent in all his bearing were displayed in a remarkable degree admirable qualities which many an honest and good man lacks. He was not defiant, like Jenkins, but modest. Marching to execution with head erect, firm step, and graceful carriage, he looked less the villain then than at any time before. Nor was his coolness indicative of audacity or indifference. It was simply the display of a natural philosophic strength of mind, exercised unconsciously, or nearly so. Yet he was an audacious villain, and every inch a villain.

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CHAPTER XX.

A BUSY MONTH.

The next in place and punishment were they
Who prodigally threw their souls away.
Dryden.

THE work went bravely on. Throughout the land it was deemed the proper thing to do. Men knew that nothing would cure the evil but hanging. The wicked ones were so active, so cunning; like Antæos, as long as their feet touched firm earth no Hercules could crush them. July, 1851, saw town and country all astir. Not of that outward noisy form, visible to the eye of the uninitiated, was the traffic of the tribunal; but whosoever with spiritual vision might penetrate the calm surface, or, better still, in bodily form step behind the already blood-begrimed curtain, would soon hear the clatter of the morality-mill, and witness the various processes of cleansing there applied to soiled souls.

This was the busiest month in the annals of the first Committee. The mass of accumulated material, most of it of a secondary character lacking special interest to the general reader, is overwhelming. What a revelation was that of James Stuart! and what a world of work it made! Meetings were held daily, sometimes twice a day, and correspondence was opened with rogue-exterminators and country committees from British Columbia to Mexico.

Hundreds of descriptions of suspected persons were sent from one committee to another—instance the

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following, given by the Marysville Committee to the San Francisco Committee:

"Charles A. Pitcher of Belfast, Maine, was whipped at Tolle's old dry diggings, above Marysville, about the 25th of June, for stealing six hundred dollars out of a miner's tent. Previous to the theft he had passed under the name of Silas Pacard. He is over six feet in height, broad-shouldered and full flesh, but not over fleshy. Will weigh a hundred and eighty-five to one hundred and ninety pounds; dark hair, cut short, and rather brown complexion; black eyes, and heavy black eye-brows. He walks with a long, stately step. He is about thirty years of age. Wore about the 1st of July a camlet coat of black, skirts rounded like a quaker's, black pants, and a low drab brush hat, with black band. He had a partner named Miller—a very respectable man—in the grocery business on Front street, Sacramento. His partner quit business on suspicion of Pitcher's dishonesty. He has a brother-in-law named Miller, of the firm of Pierce and Miller, in Sacramento City, J street, between Seventh and Eighth, who is a very honorable and respectable merchant."

Criminals were caught and witnesses examined by the score, involving the taking and writing of great masses of evidence, which might or might not prove relevant. Then there was the sea to scour as well as the land; on the arrival of every vessel from Australia the passengers and crew were overhauled for disreputable characters; also passage to be secured, and paid, for the exiled. There was the hanging of one and the getting ready of others to be hanged. There were the new quarters to make tenantable, rooms and cells to arrange, and the accommodations of constantly increasing numbers and requirements to be provided for.

The organization had likewise to be remodelled. Hastily arising from immediate necessity, adapted to simple duties rather than to complex and permanent affairs, there was much to be considered and changed. Besides the outlaws there were the lawyers, and law officers, and prisons to look after. Suits were brought which must be defended, and writs of *habeas corpus* there were to be dodged.

In the archives of the Committee before me are abstracts of the character of multitudes of those

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then arriving here, of which the following are specimens:

James Ogle, Irishman; left home in 1840 in the emigrant ship *Champion* for Sydney. Occupation a laborer; kept a tavern in Sydney; thinks there are no convicts on board this ship; has a wife and child on board; knows a Mr Eggleston in this city.

Thomas D. Snodgrass, a Scotchman; left Liverpool as passenger in ship *George Canning* in 1828; kept a sheep farm in New South Wales; has a cousin here named Benjamin Sullivan.

William Luch, an American, born in Connecticut; on ship's articles; has been on board about five months; went to Sydney as steward in ship *Christoval*, a whaler, from Nantucket; ran away from ship; never knew any of the passengers until he came on board.

David Rose, Englishman; left Liverpool for Auckland in convict ship carrying prisoners; remained in New Zealand two years; came to California in ship *Johnson*, arriving in March, 1850, with two hundred passengers.

Helen Casey, Irish, single woman; arrived in Sydney in 1820 in emigrant ship *Premier;* was waitress in an asylum at Sydney where she left her father; has a sister on board.

William Butt was taken before the Committee and testified: "I was born in Southampton; left from the Isle of Wight by the convict ship *Lord Eldon*, which took two hundred and forty-five convicts from Portsmouth; I engaged with Captain McCarthy as servant; a person named Bolton who resides here knows me; I have never been a convict." He was discharged from custody.

Mary Ann Banks, an Englishwoman; left England eleven years since in ship *Sir Edward Paget* for Sydney. No certificate.

Lists descriptive of suspected persons were carried in the pockets of the vigilant police, of which I give two specimens:

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Russell, *alias* 'Moe the Jew,' aged forty; height five feet seven; black hair, swarthy complexion, dark beard, eyes dark-brown; mouth broad, and upper lip straight; scar on right side of the chin; nose straight, eyes sunken; not like a Jew; very smooth and plausible in his address; gives to his eyes a peculiar expression; married, one boy two years old; round-shouldered, but strongly built; chin round. Can be found in a house on Sansome street, near Pacific.

Ben Sellers, aged forty-one; five feet eleven or six feet; high cheek-bones, freckled, pitted by small-pox; sunken gray eyes, brown hair, no whiskers; strong and squarely built; active man; mouth very wide; married, no children.

On board the American ship *Adirondack*, arriving from Hobart Town in July, 1851, with two hundred and fifty passengers, one hundred of whom were women, were found two who were not permitted to land.

Herewith I give a copy of a bill of lading in the shipment of an exile:

"JULY 17, 1851.

"*Know all Men by these Presents*, That I, P. Jas. O. C. White, captain of the brig *Cameo*, bound for the port of Sydney, New South Wales, am held and firmly bound unto the commonwealth of Upper California, United States of America, in the sum of two thousand dollars, upon this condition: That I will deliver the body of one Alexander Wright, a convict, who has this day been put on board of my brig by the citizens of San Francisco, and for whom the Vigilance Committee have paid me the sum of one hundred dollars for the passage of said Alexander Wright to the aforesaid port of Sydney, dangers of the sea only excepted; and that I will present him to the authorities there, and not return him again to California, nor land him during this voyage at any intermediate port.

"Witness my hand, this 17th day of July, 1851.

"P. J. O. C. WHITE.

"In presence of A. Oaksmithe and Robt. S. Lammot."

Here is the "Report of 537, V. C.":

"A man named McCurdy, who came passenger in the British bark *Princess Royal*, from London, has now in the United States Appraiser's Office 800 pounds of apparatus and false dies for counterfeiting the different silver and gold coins of the United States. This man is accompanied by a man named

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Walker. The dies, etc., will be shown to any of the Committee who may be pleased to call upon the officers of customs at the appraiser's store, California street; and they will also give a description of Mr McCurdy."

Mr Payran sends in the following communication the 7th of July:

"From information received from a reliable source I would present Yerba Buena Island as being infested with a gang of thieves, and perhaps worse. It appears that the cutter *Polk* lay to the leeward of the island yesterday, and while there distinctly saw several men leave the beach for an instant and return again, armed apparently with rifles, seemingly, to all on board the *Polk*, to prevent the landing of any persons from her. They also saw them packing boxes and bales in great quantity. The party on board the *Polk* imagined that the gang on shore took them for the Vigilance Committee. One gentleman informed me that he has no doubt of the fact that the island is the receptacle of a large amount of stolen property, as well as the habitation of several felons. I therefore respectfully and earnestly call the attention of the executive committee to the subject, and propose the following motion: That the officer in command of the *Polk* on Sunday, the 6th, be respectfully requested to come before our body and relate particulars touching the matter, as well as inquire of him as to the gentlemen on the *Polk* who witnessed the scene."

The following, from the proceedings of a July meeting, sufficiently demonstrates the sentiment of the association at this time:

"WHEREAS, Seeming quiet, peace, and safety have attended our career of vigilance up to this period, and the dreaded evils to be apprehended from sudden outbreaks of the people have fallen short of the expectation of those who were opposed to such measures; and whereas, The Committee of Vigilance of this city has been the foster-father of all such institutions throughout the state, whereby safety has been guaranteed to our brethren, and hundreds of the evil-minded who were in our midst have fled, whereby much danger will be avoided, it now becomes us to so arrange the basis of our association that its labors may be lessened and our usefulness continued, and the future present a bright scene compared with the past. Therefore we would suggest in its present form and in the following order: That the executive committee continue to discharge their duties by meeting at a room to be selected, and there receive all reports that may be offered; and should any case occur of sufficient importance to call the general committee together, to then call them by notice to be given through the public papers or tap of the bell; and in conjunction with other associations throughout the state, to hold all public matters under consideration, and report thereon; to hold the acts of all our representatives subject to our examination, so that thereby some assurance may be had of their faithfully discharging their duties. We would also suggest the propriety of receiving all good citizens as members, who shall at their initiation

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pay five dollars, with such monthly stipend as may be fixed upon; that there shall be a stated meeting of the general committee, not oftener than once a month, except in cases of necessity; that this association shall not lose its identity, but exist in all its properties, liable to be called into action whenever necessity may require; therefore,

"*Resolved*, That the Committee of Vigilance shall still continue under its present organization; that the present order of business shall continue, and no meeting shall be called of the general committee except on urgent business to be determined by the executive. That the said executive or a quorum of five meet every evening, at the place to be designated, and there receive reports and attend to such matters as may come before them. That the services of a sergeant-at-arms under salary be dispensed with; that the duty be placed on one of the Committee, who may retain the man George, or some other person in our employ, to take care of the room and attend the door. That the proceedings of the present Committee shall be engrossed, and taken charge of by them for such future action as may be taken. That the qualification committee shall be merged in the executive committee, and that no new member shall be admitted except through and by the executive committee under such rules and regulations as they may hereafter adopt. That there shall be a finance committee, whose business it shall be to take or receive all moneys, and make disbursements on orders from the executive, signed by a quorum. Also, that the executive committee shall have power to dispose of all surplus property, the proceeds of the same to be paid over to the treasury, and to fill any vacancies that may occur in their midst from the general committee."

On another occasion it was resolved,

"That the deliberations of this body should be marked with dignity and solemnity, commensurate with the nature of the subject before them. That all loud demonstrations of approval or disapproval are undignified and incompatible with the true spirit of deliberation, and are hereby declared out of order in this Committee. That any person offering an indecorous remark to a speaker engaging the attention of this Committee shall be forthwith expelled from the room."

It was also resolved,

"That when a prisoner was delivered over to the charge of the chief of police of this association such prisoner should be considered the property of this Committee, and should not be released unless by the action of the executive committee or by a vote of the general body."

The black sheep of the fold were soon detected, summarily dismissed, and narrowly watched. The following, from the minutes of July 5th, shows the shape in which complaints against members sometimes came up:

"Received communication of William C. Graham, No. 152, being a complaint against W. F. McLean, No. 539, he not being considered a fit member

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of the Vigilance Committee. No. 152 states that this morning, about two o'clock, found No. 539 standing at the door conversing with two policemen, and heard him say that it was a damned infernal shame, the action of the Vigilance Committee in the case of Goff; it was a damned imposition, and one he would not submit to; and further stated that McLean said the day they go to put their decision into execution that he would have the boys about and release him."

Among the other excuses of delinquent justice, and by no means one of the least reasonable, was that of inadequate prison facilities.

Watkins, a genteel young man, sentenced by the court of sessions to ten years' imprisonment for burglary, openly boasted before Sheriff Hays that no prison in California could hold him. His friend and confederate, Brier, also thought his own confinement would not be long or severe. These dashing professionals took a philosophic view of chance, skill, and result; if foiled in wise attempt, or if captured when nothing more was undertaken than a fair business risk, they submitted to imprisonment with characteristic good humor. Hanging more seriously interrupted their occupation, and hence should be avoided.

In the earlier epoch of city government a large appropriation had been made with which to build a jail; but, as was usual in such cases, it had all been filched by official fingerings before it could accomplish its purpose. A committee was appointed to investigate these frauds, but they had been sufficiently well managed to escape such detection as should fasten the guilt in any responsible quarter.

The necessity of securing felons when caught was daily felt more and more. In May and June the escape of prisoners was so frequent that the sheriff was obliged to bring all his lodgers at night into the main room of the building, and station policemen at different points to watch them. Under this arrangement, in many instances, a little money, or a bottle or two of brandy, was the price of liberty.

On the 30th of June a large number of the Committee, by invitation of the sheriff, visited the county

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jail, then in course of erection and partially occupied. The Committee expressed themselves as pleased with the general aspect of the place, and admitted the urgent necessity of the speedy completion of the building. But the city, already bled to dryness, could not do more. Money there was none, and promises the builders had no faith in. Fifteen thousand dollars were needed at once, and if this was raised the citizens would have to do it. The Committee at this time numbered five hundred active members; the requisite amount divided among them would leave to each thirty dollars to pay. Or to achieve a quick practical result, the fifty members of the executive, each assuming three hundred dollars, could settle the matter in an instant.

At the meeting of the 5th of July it was resolved,

"That as the amount wanted by the sheriff to complete the gaol could be made up by each of our members obtaining ten subscribers at three dollars each, a committee of the whole take up subscriptions for carrying out this object."

Thus the much needed and long delayed work was quickly, easily, and cheaply done. If all the affairs of government to-day were taken from the great unwashed, the illiterate, the dishonest, the irresponsible, from selfish scheming professionals, and placed in the hands of the few most interested in the true welfare of the country, the matter of our governing, federal, state, and municipal, would not cost one fifth its present assessing.

Forms printed in the following words were circulated for subscriptions:

"PROPOSED PLAN FOR COMPLETING THE COUNTY JAIL.

"We, the subscribers, citizens of San Francisco, hereby agree to pay to the Committee of Vigilance, of said city, the sum of three dollars each, to be appropriated by said Committee, and disbursed under their direct supervision, for the purpose of completing the county jail."

The money was paid over as the work progressed, the last of it not being required until September, as the accompanying order shows:

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E Delessert Esq
Treasurer V. C.

Please pay to the order of John C Hays Esq Sheriff of the County of San Francisco the sum of Forty four hundred & Eighty four dollars the same being the amounts collected and paid in on "Jail Fund"

San Francisco Sept 10th 1858

$4484 00/100

James C. T. Wadsworth
Geo. Ward
P. D. Hedley
Finance Committee of V. C.

Early in July was brought the first of those annoying lawsuits against members of the Vigilance Committee of which there were so many during the year succeeding the great work of 1856. This suit was entitled Metcalf *versus* Argenti, Atkinson *et al.*, and was brought in the superior court of San Francisco, Justice Smith presiding. It appears that one Peter Metcalf, a carman, agreed for the sum of fifty dollars to take charge of four loads of furniture and wearing apparel during the great fire of the 22d of June. When called on to return the property he produced three loads, excusing himself from not returning the fourth on the ground of confusion and loss during the exciting scene. Suspicion was aroused no less by the man's contradictory statements than by the fact that out among the sand-hills was found a richly furnished house, containing some twelve or fifteen trunks filled with new and valuable wearing apparel, fire-arms, and other property, unquestionably stolen during the fire.

The Committee of Vigilance, on being informed of the facts, set themselves at work to find the guilty persons, and in accordance with their custom they took the path that seemed before them straightest to the mark, and that without consulting custom or asking permission of the law. Suspecting Metcalf, they entered and searched his house. For this the carman demanded before the court twenty thousand dollars.

Owing to certain delays the trial was not begun until the 16th of August, and it ended the 23d. At a meeting of the Committee, held the 5th of July, a resolution was passed as follows:

"That a committee of three be appointed to wait on Mr Metcalf, and on Messrs Lockwood, Tilford, and Randolph, acting as counsel for the prosecution in the case of Metcalf *versus* Argenti, Atkinson, and others; and they are hereby directed to request those gentlemen to withdraw the suit and all further proceedings in the matter."

At the same time was adopted the following pre-

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amble and resolution, which appeared in the public prints:

"It having become necessary to the peace and quiet of this community that all criminals and abettors in crime should be driven from among us, no good citizen, having the welfare of San Francisco at heart, will deny the Committee of Vigilance such information as will enable them to carry out the above object. Nor will they interfere with said Committee when they deem it best to search any premises for suspicious characters or stolen property; therefore,

"*Resolved*, That we, the Vigilance Committee, do claim to ourselves the right to enter any person's or persons' premises where we have good reason to believe that we shall find evidence to substantiate and carry out the object of this body; and further, deeming ourselves engaged in a good and just cause, we intend to maintain it.

"By order of THE COMMITTEE OF VIGILANCE.

"*San Francisco, July 5, 1851.* No. 67, *Secretary*."

In every large and promiscuous body of citizens there are some whose judgments are ill-advised and whose actions are too impetuous. The publication of this resolution was certainly injudicious on the part of the Committee. Its members would have known, had they carefully considered the matter, that no good could come of it, and much evil might be the result. The suit was brought by a poor carman against members of a powerful association, through a prominent law firm, whose fee, almost of a certainty, was contingent. Under such circumstances any overtures on the part of the association could not but be damaging to the defendant. As a matter of course the client would be governed by his counsel, who if they were gentlemen would give gentlemanly answers, or if blackguards they would reply accordingly.

In this instance the reply of the law firm to the appeal of the Committee for a dismissal of the suit illustrates more fully than could any words of mine the character of the men composing it. Says the lawyer Lockwood in the journals of the day: "Sundry fools or knaves, perhaps both, styling themselves the Vigilance Committee, have caused to be transmitted to the firm of Lockwood, Tilford, and Ran-

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dolph, the following resolution [given above]. As a member of said firm, my only answer to the aforesaid fools or knaves, in addition to the verbal response to the bearers of the resolution, is, I do defy, deny, spurn, and scorn you."

The formal reply of the firm displayed a spirit but little more decent or truthful:

"SAN FRANCISCO, July 7, A.D. 1851.

"GENTLEMEN:

"We have received with astonishment a communication through your hands, purporting to be an extract from the minutes of the proceedings of a certain association styling itself the Vigilance Committee, in which we are requested to withdraw the suit which we have instituted in behalf of Peter Metcalf *versus* F. Argenti and F. A. Atkinson.

"We forbear to remark upon the folly, the presumption, the ignorance of your own powers and of our character, and the entire disregard of the constitution and laws, and the rights of your fellow-citizens, which that communication betokens.

"You will, for our answer, say to those who sent you, that we need no advice, and will submit to no dictation from the Vigilance Committee, collectively or individually; and that they may rest fully assured that we will prosecute the suit of Metcalf *versus* Argenti and Atkinson, and all other suits of a similar nature in which we may be employed, with the utmost of our ability and to the end of the law.

"We remain, your obedient servants,

"R. A. LOCKWOOD,
"F. TILFORD,
"EDMUND RANDOLPH.

"*To Messrs Sharron, Curtis, Bromley, and Spence*, Committee."

The result of this trial was a failure of the jury to find a verdict. Nine were in favor of acquitting the defendants, and three held out for nominal damages. The case was then taken to San José, where the jury found for the plaintiff in the sum of two hundred dollars.

The speeches of the respective members of this law firm on these two several occasions are models of verbiage. Nothing could injure a cause more effectually than such advocates. Listen: "Men and brethren, awake from your false security! Heed not those hireling and corrupt editors, who persuade you

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to surrender to the patriotic and disinterested Vigilance Committee the custody of your character, your property, your liberty, and your lives. Heed not the crocodile lamentations and hyena howlings over petty crimes, of those vampires who at midnight drain the stream of life in your midst, and at mid-day repeat their horrid orgies with triumphant demonstrations. Murder, murder ten-fold more damnable than felonous individual homicide, stalks your streets; not shrouding its hideous aspect in murky darkness; not screening its blood-stained hand in secret lurking places; but with brazen front, in the open glare of day, defying and trampling upon your constitution and laws, and laughing to scorn the solemn mandates of your highest courts of judicature."

Again: "What have those mushroom noblemen, those sweet-scented, starch-collared, counter-jumping aristocracy, who in one short night, by the foul purchase of a goodly quantity of dirty ink and printing materials, became suddenly metamorphosed from cheating haberdashers and close-fisted, soulless money dealers, into an august body of patriotic noblemen; in the name of sense, what good have they accomplished for the community that they thus, with haughty and supercilious air, challenge for themselves the highest niche in the pantheon of our plebeian affections?"

On the subject of domiciliary visits in this connection, the *Herald* of the 17th of July makes the following pertinent remarks:

"Domiciliary visits constituted the bugbear got up as an argument against the Vigilance Committee, and it was represented in proclamations and charges to grand juries as a tremendous stretch of power to search the crib of a confederate of thieves for property stolen from honest citizens, a power exercised in every state in the Union, and in every country in the world where there is a police, and one which should be exercised by the police of this city if they properly discharged their duty. By the exercise of this power we remember that one police-officer recovered after a fire, about six months ago, something like twenty thousand dollars' worth of property secreted in houses on the outskirts of the city. It is a power which no honest man need dread,

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and which has never been exercised by the Committee except for the detection of crime or the recovery of stolen property. The stress laid on this thing by Mr Campbell and Mr Brenham is therefore very gratuitous. They should not have permitted themselves to give expression to such platitudes. But the present bugbear is constituted authority. With the voice of a Cassandra and the tears of a Pecksniff one of our contemporaries lugubriously deplores the calamity that must follow a disregard of the sacredness of the judicial character, to wit, a disregard of the sacredness of Parsons. The courts must not be interfered with; they must be permitted to conduct business in the old way, or the consequences to the community will be ruin and disaster. The argument, in brief, is: The Committee must cease from the good work they have in hand, or society will be thrown into chaos, and confusion and anarchy will reign supreme. The old régime of the slung-shot and the bludgeon must be restored in San Francisco in order that officials may live. The city must be periodically fired, houses must be robbed, safes broken open, citizens murdered in the streets, bribery and false swearing must be encouraged in the courts of law, and villainy of every caste and character must be permitted to run riot in San Francisco, else there is to be forsooth an upheaving of society, and a prostration of all the fabrics of civilization and morality. The citizens are called upon to show their respect for courts by sacrificing their lives to the assassin, and what remains to them of their property to the incendiary and burglar. We need not ask the Committee not to suffer themselves to be cajoled into breaking up their organization. They have no intention of so doing, and least of all, in answer to such representations. The citizens do not wish to be again abandoned to the tender mercies of corrupt and treacherous officials, or to have the city again swarming with miscreants of every grade. If the authorities feel hurt that the citizens take the law into their own hands, let them resign. They know they are thoroughly and heartily condemned by the people. They whine about their power being trampled upon. We say again, let them resign. Office in their hands has brought forth no fruits but impunity for crime. An organization of criminals in our midst has been nursed and fostered into growth and vigor by the guilty connivance of men in office. Ample space and verge enough has been afforded the thieves to carry on their extended and systematic schemes of villainy. That is what law has done for us. Do the authorities imagine the people will suffer the city to relapse into this condition?"

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CHAPTER XXI.

OPPOSITION TO VIGILANCE ADMINISTRATION.

Patriotism is the last refuge of a scoundrel.

Dr Johnson.

I HOPE I shall not be misunderstood, or accounted loose or lawless in my conceptions of constitutional and statutory government, when I uphold, as I am constrained to do, the people of California acting as Committees of Vigilance in their several emergencies. Forms of government and rules for the regulation of judicial proceedings are essential to civilized society. Christ's millennial reign has not yet begun upon this planet. Until that time, or until the curses of law and government are no longer necessary, I hold them in profound estimation, for they are the savior of life and property. Evils they are, and given us for our sins; yet being necessary evils, should we not rather call them blessings, and not evils at all? So, indeed, we do call them when they are good; when bad, they are the evil offspring of their grandam evil.

I say that I respect law and government, lawyers, law-makers, and governors—when they are respectable. In law and politics there may be, and are, honest men; just as in stocks, railroads, banking, butchering, carpentering, and white-washing, there may be, and are, dishonest operators. All the good men are neither crowded in nor crowded out of any one profession or occupation. As a rule the judiciary of England and America are as able and upright men as under the present economy their

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Maker can expect them to be. Among the legal profession of my acquaintance there are those, and many of them, as high-minded and noble men as ever lived; men who would lose a right hand before it should subscribe a lie, or a tongue before it should counsel dishonor. These men, lawyers, judges, governors, for their spotless purity of character, their integrity and ability, I bow before. I honor them for themselves, more than for the office they hold. Gold is but gold, even though it be made into a calf. Furthermore, I can safely say that there never have existed on the earth free governments better adapted to their respective peoples than the governments of England and America. And to these I am ever ready to pay allegiance, as in duty bound. The good man is in duty bound to respect the government under which he lives, because by and for the righteous element of the commonwealth it was established. The virtuous citizen will not overthrow the law, because for his protection, as against vice and criminality, and at his cost, it was and is made and sustained.

It was not law and government that the vigilance men complained of, but the lack of these. In the outskirts of our civilization it has ever been the case that the restraining influences of government are necessarily weaker than in central societies, where forms are more settled, officers more watchful, and the machinery applied more perfect and smooth in its running.

California committees of vigilance were composed, for the most part, of men of good parentage and antecedents, who had not departed from the faith of their fathers. They were men of conscience. Respect for their Maker and for his ministers, sacerdotal, judicial, and legislative, had been early and continually instilled into their minds, made a part of their being, and was their rule and watchword at the time and in the midst of their most determined opposition to crime as much as at any time before or since.

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They who opposed independent action in the emergency were such as in religion, politics, and society respected form more than substance. They were image-worshippers whose idolatry had long since ceased to carry them beyond the symbol of their faith. They were of the class to whom in the church purity of belief and holiness of living were of less moment than time-honored tenets, formulated creeds, and church ceremonials. From childhood, by precept and example, their minds had been moulded into set forms. Form was ever uppermost in all their thoughts; they could see only form, handle only form, and conceive only form. Shadow, not substance, was the calibre of their imaginings. From the soul of things their souls were forever barred by the skeletons of dead maxims. They could not think beyond the crust that interposed between their minds and eternal realities.

This, then, was the difference; one contended for the supremacy of form while the other saw only the substance. One would see perish the substance if only the form was maintained; the other would sacrifice the form, if need be, to the reality.

Between these two parties was to be fought the battle for the vindication of the right or principle of the movement. Naturally enough ministers and beneficiaries of the law regarded the interference of laymen with an evil eye. Though powerless themselves with their rusty machinery to protect society, anarchy and annihilation should come rather than the fair form of their ancient idolatry should be desecrated by the polluting touch of the uninitiated, or the ermine of the bench be soiled so long as its purity should be in their keeping.

At this time it was the habit of those who favored the Vigilance Committee to rendezvous informally at the Union Hotel, while the law and order party held their caucuses on the corners of the street in front of some saloon. There they meditated upon the unhappy fate of a people who had not such as they to

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rule over them, and speculated upon the probabilities of official profit and loss in these degenerate days.

But so sudden and so strong was the blow struck by this organization of popular will, and so pusillanimous the law and its officers, that at the first there was but little opposition to the action of the Committee. However unpleasant the pill, they took it; howsoever they complained among themselves, few at that time broke out in loud opposition. The governor of the state, the mayor of the city, the sheriff, police, and most of the lawyers and judges, were silent as to the proceedings of the Committee of 1851. Some offered gentle opposition, protesting merely to keep up an appearance; others were earnest or obstinate in the discharge of their obligations to the law; but all were reticent, all guarded well their speech.

Like Cæsar prostrate with disease, majestic law was now most humble; it remonstrated, but with benignant mildness; it resisted, but so gently as to invite rather than repel advance—for which consideration the people were devoutly thankful.

There is no special blame to be attached to the better class of the law and order party, to those who honestly believed that the interests of the state demanded implicit obedience to legislative enactments, and that the letter of the law was paramount to the spirit of the law. The several classes of this party viewed the question from totally different standpoints.

Beginning at the lowest class: Criminals themselves regarded law-courts with favor, because they were their shield, their protector from popular fury, their father-confessor and absolver. To the moneyed murderer the courts offered absolute immunity from punishment. Not only this, but trial was equivalent to amnesty; the jury's verdict was the general pardon that consigned to oblivion past offences. This is no random statement; the fact is fully substantiated by

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the criminal statistics of the time. Says the *Herald* of July 4th:

"It is now fourteen months since the district court went into existence, and during the period from April 20, 1850, to May 23, 1851, the whole number of persons committed for trial at that court amounted to one hundred and eighty-four. It is a startling fact that of this number but nine remain now in custody, paying the penalty of their offences. Seven have been discharged by the grand jury, six have died, and two have been pardoned. Besides these nine some few others of the one hundred and eighty-four are in prison awaiting trial; but of the whole number, nine only are in custody under sentence. Forty have been admitted to bail, and doubtless will never again be heard of. Sixty-one have been acquitted and discharged by order of the court, and twenty-one have escaped and have not been retaken."

Petty and poor offenders only were punished. Able counsel was secured by money, false witnesses were suborned, and judges and jailers made lenient. I do not mean to say that all officials, nor the half of them, were open to bribery. There were some as pure judges on the bench then as now. Yet money, if not directly, then indirectly, would buy acquittal or pardon. Looseness and generality characterized law proceedings. Money would impanel a jury favorable to the accused; if not at the first, then the case would be postponed from time to time, until characters suited to the emergency of the case could be installed as jurors. All the technicalities of court procedure were employed for the acquittal of the accused. Criminal cases were held in abeyance until witnesses could be spirited away. So that criminals and all those who lived by crime, either as its defenders or prosecutors, were from the very nature of the case opposed to any interference on the part of the people.

Then there were the higher classes of various grades who opposed the vigilance movement from principle. From their youth they had been imbued by precept and example with the importance of forms, until the essence of things had become secondary. And as well might we look for water to refrain from seeking its level, as that class-bias, and party-

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bias, and the bias of education, even in minds learned and discriminating, should leave opinion untrammelled. It is so easy to think ourselves honest and intelligent in our beliefs where interest and pride of opinion are at stake, that we should condemn only where we are willing to be condemned.

In my dealings with the law and order party I hope I shall do them no injustice. That I shall not be influenced by feeling I am sure, for I entertain no animosity toward them, or any one of them. I have many friends and not a single enemy in their ranks; and while I would not willingly wound the feelings of any, I deem it my duty, here as everywhere, plainly to speak the truth as it comes to me—else I cannot write.

Pet names were given the opposition by the appreciative people, who in this manner often come nearest the true character of a man or measure. They were playfully called 'law and disorder party,' 'law and murder party.' The law party was indeed without order, and the order party without law; one was lawless, but loving order; the other full of law, but lacking order. To one of the judges of the supreme court was given the sobriquet 'Mammon,' and to another, 'Gammon.'

Several cases of poisoning came up about this time, which, from their nature and the inability of the courts to reach them, called forth the following from the editor of the *Picayune*, the 13th of June:

"To know that such a transaction occurs in the heart of the city, and is let pass without examination, without investigation of any sort, is sufficient of itself to drive an outraged and injured people to the wildest acts of desperation. Numbers of persons condemn the action of those who on Tuesday night hung a wretch, guilty of arson and murder in one continent, and of burglary, at least, in another. For our own part we regret that the trial was conducted in secret, and by persons who were not delegated by the people to act as jurors; but when either the law is so imperfect or the administration of it so lax as to suffer such deeds as the two recorded above to be perpetrated, without not merely punishment, but investigation; when it is known that within the past twelve months fifty-four murders have been

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committed in San Francisco, we cannot wonder that honest men should be driven into taking the law into their own hands, into constituting themselves judges and jurors, and protecting themselves, when the law fails to do it, by executing summarily persons detected in the commission of crime. A great outcry has been made about the danger of secret societies acting in the manner in which the Committee of Vigilance did on Tuesday night. Certain timorous gentlemen seem to fear that they themselves, though guiltless of crime, will be suddenly hurried off some dark night to a lonely place in Happy Valley, and without a chance to speak to friend or family be choked to death by Mr Samuel Brannan. Certain legal gentlemen, with an acuteness for which they are remarkable whenever their interests are endangered, encouraged this belief; and the consequences are that a matter which should have been dropped at once has been kept in agitation for several days. The good effect which the lynching might have had on the rogues and villains around town will all be dissipated, and the murderer and burglar will walk around more daring than ever when they know that to the sympathies of the scoundrelly they can unite the folly of a large portion of the honest citizens. For our own part we do not stand in any very great fear of Mr Brannan; we are inclined, too, to think Mr Ward quite a gentlemanly and quiet personage; Mr Battelle we don't consider a desperado; nor, in fact, in reading over the names of the Vigilance Committee do we see one man who is quite as bad as Windred, Stuart, or Adams. In fact they are all pretty decent fellows. Neither do we fear that this Committee is going to prove an inquisition in the city, nor its members decemvirs. Such a thing will never be attempted here, and if it were, the gentlemen composing the Vigilant Committee would be the first indignantly to frown it down. We have no fear that an honest man is going to be hanged at midnight by them; and we confess the weakness of going to sleep with a greater feeling of security from the knowledge that some of the members may be under the window. The secret society which is dangerous here is not this association of respectable citizens, but the organized band of Sydney scoundrels who meet at the foot of Telegraph Hill and in back alleys near Pacific street. These men we dread; and we have some little fear, likewise, of those men who make a rule of standing between justice and the people on nearly every occasion."

There was a strong opposition to the organization of 1851, of which Broderick and his political retainers were chief; but so secret and so rapid were the movements of the Committee that the men of law and order did not know when or where to strike. Had it been known how few were actually engaged in the execution of Jenkins he would probably have been wrested from them by the officers of the law and the movement crushed in its incipiency. Unlike the more substantial and sedate organization of 1856,

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whose strength lay in its moral and intellectual solidity, the material composing the Committee of 1851 was somewhat mercurial, though wily enough to do its work and talk of the consequences afterward.

David C. Broderick in the early part of his career was a professional politician of the New York type, rough and self-reliant; honest as a rule in his intentions, but often erroneous in his opinions. Born in Washington in 1819, he was taken by his father, a stone-cutter, to New York in 1825, where, when grown, he kept a drinking-shop, ran with a fire-engine, and manipulated primaries. Arrived in California in 1849, without education, but with marked ability, he became a hard student and let fly his ambition, which carried him at length to the United States senate. Possessed of many objectionable qualities, he was not without redeeming traits. His ambition was laudable, his perseverance indomitable, and his habits exemplary.

On the 9th of July a meeting was held at the house of the Saint Francis Hook and Ladder Company, with Broderick, McHenry, Rice, Randolph, and Duane as speakers. Resolutions were submitted which were to be presented to the city officials for their signatures, pledging the signers, so far as lay in their power, to prevent the infliction of punishment without due process of law, rallying to the support of the threatened, and defending him with their lives.

At the autumn elections an independent ticket was nominated by those who regarded party distinctions in the political contests of this coast as obsolete and foreign to the interests of the commonwealth. This movement was charged by their opponents upon members of the Vigilance Committee, who by thus employing their organization for the furtherance of their power were said to be but fulfilling their chiefest aim entertained from the beginning.

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Never was a statement more absolutely foreign to the fact. All the interests and instincts of the class composing the vigilance association were opposed to meddling in politics. Money was what they wanted; protection for their property, and that safety for themselves which would enable them to increase it. It was a lack of that which was now charged upon them—interest in the affairs of the government—that had brought all this trouble upon them. If from the beginning the members of the Vigilance Committee had done their duty as citizens, and voted honest and efficient men into office, there would have been no need of their organizing a special crusade against crime. As it was, they utterly repudiated the act and intention charged. At a meeting held the 26th of August the Committee refused to recognize the ticket in question, or any other ticket, and resolved forever to abstain from any participation in politics.

"Whereas," said they, "it is with deep regret that we learn that a political ticket for the coming county election has been put forth purporting to emanate from certain members of this association; and believing it ruinous to the objects of our formation for us to recognize any ticket of a political character, resolved, that this Committee disavow all participation in the formation of the said ticket, and wish it distinctly understood that they will in no manner lend it their countenance or support as the Committee of Vigilance."

The 18th of June an inflammatory handbill was posted about the streets, calling an anti-vigilance meeting the following Sunday afternoon. It is remarkable neither for its logic, good taste, nor truthfulness:

"MASS MEETING TO SUSTAIN LAW AND ORDER.

"The people of the city and county of San Francisco, republicans one and all, are called upon to choose now, ere it is too late, which they will serve—the law and order power of our city, or the dictators and anarchists who have lately disgraced our city by their lawless and criminal proceedings, and are

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yet endeavoring to assume unlimited and unlawful power in the punishment of criminals. Even now they are going from door to door, from city to city, soliciting desperate men to join their secret Committee, with a view to transfer the criminal jurisdiction from our legally constituted tribunals into their own irresponsible hands, thus subverting all government, all law, all justice, as made and provided by the United States and our own state constitution. Will ye, lovers of law, and order, and social compact, longer tolerate such men in their career of murder and subversion of the laws, among whom are those guilty of the very crimes they profess to punish? Shall it be said that our police is not of sufficient force to arrest these murderers, and our city officials shall wink at their outrages, thus perjuring themselves? Shall we tolerate, in this enlightened age, a Danton, a Robespierre, or a Fouché, and all the paraphernalia of a secret inquisition for the suppression of our laws and criminal courts? Then to the rescue of law and order from the hands of a secret inquisition, every good citizen, and without further invitation turn out *en masse* to a public meeting to be holden on the plaza, Sunday next, June 22d, at three and a half o'clock, P. M., and there join in the general opposition to the acts and further operations of midnight murderers; and let the civilized world know that we can and will support law and order, and that our social compact shall be as much observed by the wealthy criminal, public robber, and law subverters, as by the lowly thief.

"MANY CITIZENS."

It is said that the mayor interposed his influence to suppress this movement, on the ground that no benefit would come of it, but that on the contrary such a proceeding would breed only greater confusion.

"In the official report," says the *Herald* of August 5th, "of the proceedings of the Young Men's Democratic Association at their meeting on Saturday evening, we find the following: 'Mr Randolph offered the following resolutions, which were seconded but lost:

"'*Resolved*, That a true democrat must hold the constitution and the laws of his country inviolably sacred, and scrupulously respect the forms of legal proceedings, whereby life, liberty, or property is to be effected. That we will not give our support to any candidate for any office who individually or as a member of any association has systematically and with premeditation abridged any of the chartered liberties of the citizen, and especially who has resisted or evaded the great writ of *habeas corpus*, or has held persons to answer for capital or other infamous crimes, otherwise than on presentment and indictment by a grand jury, or has denied them the assistance of counsel or the right of trial by jury, which the constitution of our state declares shall be secured to all and remain inviolable forever; or who has counselled or approved, aided or abetted any other person in doing any of these things.'

"This places the question fairly before the people, and we wish nothing better than that the issue may be made in the next election. The *Star* says the resolutions were lost, but we hope the association will revive them, and

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either repudiate or avow explicitly the principles they contain. Some of the gentlemen on the democratic state ticket, among them Mr Heydenfeldt, the candidate for judge of the supreme court, have approved and abetted the course of the Vigilance Committee. We desire now a distinct avowal on the part of the leaders of the democratic party whether those gentlemen are to be blackballed by any portion of their own party at the next election for the expression of their opinions."

The mayor of the city issues his pronunciamento in terms following:

"TO THE CITIZENS OF SAN FRANCISCO.

"We have arrived at an important crisis in the civil and social condition and prospects of our city. A voluntary association of men has been formed, under peculiar bonds to each other, and assuming most extraordinary and irresponsible powers, and has undertaken to institute extra-judicial proceedings in forms not known to the laws. This association claims and exercises the right to inflict penalties upon those adjudged by them guilty of crime, even to the penalty of death, and has publicly and boldly inflicted that penalty in two instances.

"They claim and exercise the right of domiciliary visits, without any accountability, of a character not known under any other than inquisitorial governments. The great and sacred writ of *habeas corpus* has been rendered by them ineffectual, and the authority of the highest tribunal of the state disregarded. The circumstances in which the authorities are placed in consequence seem to demand of me, as the constituted chief magistrate, some action by which the views and purposes of the city government, over which I have been called to preside, may be indicated to the citizens, to the country, and to the world. The people of the United States, of whom we are proud to be considered a part, have always attributed their eminence above almost any other people in the scale of freedom and security in their rights to the fact that they live under a government of laws of their own voluntary adoption. The people of California have taken perhaps a more conspicuous place than those of any of the sister states, under a full recognition of that republican medium of public authority and of common protection. The several departments of the only government which any man among us can possibly acknowledge have been created by the constitution and laws, to which you as well as the public officers have given a common assent. These departments have been committed to the administration of men taken from among yourselves, and they have entered upon their trusts, doubtless, with a firm reliance upon the loyalty of their fellow-citizens to the constitution and laws for a steady support in the exercise of their respective functions. The obligation of such a loyalty on the part of the people is unquestionably as imperative upon them as any of the obligations of the laws can be upon those who are intrusted with their public administration; and the violation of obligation on the one side is as disastrous to the community as the abuse or perversion of official station can be on the other. The idea that any defects in the law, or

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any incompetency of its execution, can be remedied by voluntary associations of citizens, assuming a superiority to the laws, is not only preposterous, but implies an abrogation of all law, and resolves society into a state of perfect anarchy. The result is inevitably the same, however intelligent may be the minds, pure the motive, or temporarily beneficial the acts of those who become so associated. In a community like ours, where the institutions of government have but just been established, any combinations of citizens for purposes not authorized by law, and whose proceedings are not controlled by law or subservient to the support of constituted authority, can have no other than an insurrectionary tendency throughout the commonwealth, and must to an absolute certainty inflict disgrace upon us in the estimation of our countrymen in other parts of the Union, and ruin the confidence which it is of first necessity to our prosperity to secure throughout the commercial world. With these views I feel impelled, by the strongest sense of official duty, and by every consideration for our common welfare and public character, to call upon all citizens to withdraw from such association, and to unite in a common effort to support the laws and to sustain a prompt and energetic administration of them in their proper application and action. In addition, I deem the present a proper occasion to announce, in the most distinct terms, that I shall not shrink from a prompt discharge of the duties which the statutes of the state and the ordinances of the city have made imperative upon me; and that there may be no misapprehension in respect to what these duties may be, I have to call the attention of all citizens to the provisions of the act to regulate proceedings in criminal cases, chapter iv. I, however, appeal to the good sense and deliberate judgment of my fellow-citizens to relieve me, and the other public functionaries of the city, by their common submission to public order, from the necessity of any application of the requirements of that act.

"C. J. BRENHAM, *Mayor.*

"*Mayor's Office, July 11th.*"

From the report of the grand jury for the special July term I extract the following:

"There is another subject to which our attention has been directed by the presiding judge, in his able charge, which has occupied much of our time and serious consideration. It is well known that a large portion of our best and most worthy citizens have associated themselves together, and without the intervention of our legal and constituted tribunals entered upon the investigation of criminal charges against several persons, and executed sentence of condemnation and death. When we recall the provisions of the constitution of our government, which it is the bounden duty of every citizen to support and maintain, that no person shall be held to answer for a capital or otherwise infamous crime unless on a presentment or indictment of a grand jury, nor be deprived of life, liberty, or property without due process of law, and find also the same provision and language in our state constitution, we feel convinced, doubly convinced, while we believe the members of that association have been governed by no improper motives, that their proceedings are

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unlawful and in violation of the fundamental law of the land. We fear, too, the powerful example of those proceedings may engender a spirit of insubordination, or afford a pretext to other individuals or associations here or elsewhere in our state, who may not be governed by the same honest motives, or restrained by the same careful investigation of facts, for the perpetration of deeds of violence, which may lead to anarchy and abuses dangerous to the lives and property of citizens. When we recall the delays and the inefficient, we believe that with much truth it may be said the corrupt administration of the law, the incapacity and indifference of those who are its sworn guardians and ministers, the frequent and unnecessary postponement of important trials in the district court, the disregard of duty and impatience while attending to perform it manifested by some of our judges having criminal jurisdiction, the many notorious villains who have gone unwhipped of justice, we are led to believe that the members of that association have been governed by a feeling of opposition to the manner in which the law has been administered and those who have administered it rather than a determination to disregard the law itself. Under institutions so eminently popular as those under which we live, the power of correcting all these abuses is with the people themselves. If our officers are unfit for the stations they occupy, if the laws are not faithfully executed, if an arraigned criminal procures his own friends to be placed on the jury that tries him, where is the fault, and where is the remedy? If those of our citizens who are most interested in having good and wholesome laws, and in seeing them purely administered, will not give sufficient attention to our elections to procure proper and sober legislators, judicial and other officers, and neglect to obey the mandates of our courts when summoned as jurors and witnesses, as has been too often the case, can they expect to see justice prevail? And is it not in the neglect of their duties in these important particulars they may find the true fountains from whence have sprung many of the evils we have suffered? The grand jurors, believing, whilst they deplore their acts, that the association styling themselves the Vigilant Committee, at a great personal sacrifice to themselves, have been influenced in their actions by no personal or private malice, but for the best interests of the whole, and at a time, too, when all other means of preventing crime and bringing criminals to deserved punishment had failed, here dismiss the matter as among those peculiar results of circumstances that sometimes startle communities, which they can neither justify nor by a presentment effect any benefit to individuals or the country, and with the assurance that there is a determination on the part of all well disposed citizens to correct the abuses referred to by selecting proper officers to take the places of those who have violated their trusts, and by performing each his part in the administration of the laws. When this is done, the axe will have been laid at the root of the tree, the proper remedy applied for the correction of the grievous evils our city and county have so long suffered, and there will be no necessity for the further action of that Committee. To them we are indebted for much valuable information and many important witnesses."

In answer to this comes Levi Parsons, judge of the district court, and asks the court of sessions to strike

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out that portion of the report which refers to the district court. In his motion the learned judge indulged in several assertions, to which the jury took exceptions in the following terms:

"The undersigned, members of the late grand jury, deem it due to themselves to correct a few errors, wilful or otherwise, of the honorable Levi Parsons, judge of the fourth judicial district, made by him in his motion before the court of sessions, to strike out certain portions of said grand jury's report. The assertion that the names of but two witnesses were endorsed on the back of the indictment of Hall and Spiers is correct. The assertion that but two were examined, and that the jury had listened to outside evidence, is false; and they believe the honorable judge knew it to be so when he uttered it, it having been explained to him by one of the jurors, previous to the visit of the honorable judge to Sacramento, that by some mistake—easily made in the press of business—the names of the other witnesses were accidentally omitted. He also stated that he had received a note from the grand jury, disapproving of a certain or certain jurymen then trying the above case. This statement is wilfully and unqualifiedly false, no communication having been sent the honorable judge by the grand jury, either officially or individually."

The court of sessions denied the motion of the district judge holding that the grand jury possessed the undoubted power to examine the conduct of public officers and to express their sentiments on all public affairs.

Immediately after the execution of Stuart a fresh charge was given the grand jury by the court of sessions. The charge from which I extract the following was made by Judge Campbell, an able and upright man. And what he says is true so far as it goes. He throws off a series of general propositions, but hardly touches the real points at issue. To charge the people with murder was simply judicial mud-flinging; and to speak of liberty, constitution, and legal safeguards in the connection was but a little more of that political fustian of which the people were already too tired.

"The court deem it their duty to call your attention to an event of the most startling and fearful character. We are informed that, yesterday, a person by the name of Stuart was taken by an organized association to the Market-street wharf, in this city, and there hanged by them; that a large force

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guarded the wharf to prevent the success of any attempt which might be made by the public officers or citizens to vindicate the law and rescue the deceased. This outrage took place in the open day. It is wholly without excuse or justification. The question has now arisen whether the laws made by the constituted authorities of the state are to be obeyed and executed or whether secret societies are to frame and execute laws for the government of this country, and to exercise supreme power over the lives, liberty, and property of our citizens; whether we are now to abandon all those principles which lie at the foundation of American law, and are the birthright of every citizen, which from the earliest period of American history up to the present time have ever been cherished by the good, the wise, and the great. Are the people willing to throw away the safeguards which the experience of ages has proved necessary, to trample the laws and constitution underfoot, to declare that law is inconsistent with liberty, and to place life, liberty, property, and reputation at the mercy of a secret society? If such be the disposition of the people; if the Spanish inquisition is to be revived here, with all and more than all its former terrors; if without, or in defiance of, all legal process, by the mere order of a committee, men are to be arrested, secretly tried, and suddenly executed; if the tap of a bell is to be the signal for hundreds of armed men to assemble instantly together, and to execute, in open day, their unlawful and treasonable designs, it is time for every man who values his life, safety, and honor, to shake the dust from his feet and seek out some new home where he may hope to enjoy the blessings of liberty under the law. But if, on the other hand, we have not quite forgotten the principles upon which our government is formed; if we believe that the constitution and laws of our country should be reverenced and obeyed, and that public order and tranquillity should be preserved; if we believe that persons accused of crime should have an open, public, and impartial trial by a fair jury of unprejudiced citizens, and should have a reasonable opportunity of making their defence, of employing counsel and summoning witnesses; if we believe that the good name and reputation of our citizens is to be protected from a secret scrutiny, where accusations are made under the influence of fear, by persons of questionable character; if we believe that our houses are to be protected from unreasonable searches, without color of authority, it is our solemn and bounden duty to take immediate and energetic measures for the suppression of the spirit of reckless violence which overrules the laws and sets the constitution at defiance. When you first assembled, the court called your attention to the unlawful execution of a man named Jenkins by an association of citizens. We considered that act as greatly palliated by the circumstances under which it was committed; that the laws had been defective, and that perhaps there had been some laxity in their administration; that the county had no sufficient jail for the detention of prisoners; that crime had increased to a fearful extent, and that a portion of the citizens, deeming that the law afforded them no protection, had in that instance undertaken to execute what they conceived to be summary justice, in violation of the law, but with a sincere desire to advance the public interests. We further stated that the law had been amended in many respects, so as to secure the speedy trial and conviction of offenders, and in some cases to increase the measure of their

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punishment; that the county jail had been put in a proper condition for the safe-keeping of prisoners; and we expressed the hope that no further attempts would be made to interfere with the legally organized tribunals of justice, or to wrest from them their just powers and attributes. From the time of your assembling the court, the grand jury and all the officers have been actively and constantly engaged in the performance of their duties. At the time when they were making every possible effort to dispose of the criminal business of the county, and when the court was in actual session and in the performance of its duties, an association of persons, of armed and organized men, have undertaken to trample on the constitution, defy the laws, and assume unlimited power over the lives of the community. There is no excuse or palliation for the deed; it is a gross and glaring outrage; it seems to have been done for the express purpose of hurrying on a collision between the courts, and all fond of law and order on the one side, and the association referred to on the other. If the deceased was guilty of any crime, he could have been immediately indicted, and within a week, or at most ten days, tried, convicted, and sentenced. Public justice could have been vindicated without infringement of public law. Every person who in any manner acted, aided, abetted, or assisted in taking Stuart's life, or counselled or encouraged his death, is undoubtedly guilty of murder. It is your sworn and solemn duty, which you cannot evade without perjuring yourselves, carefully and fully to investigate this matter, and to do your share toward bringing the guilty to punishment. Upon your fearless and faithful discharge of the sacred trust confided to you depends in a great measure the future peace, order, and tranquillity of the community."

Commenting on which the *Herald* of July 14th says:

"We would fain forbear commenting on Judge Campbell's charge to the grand jury on the execution of Stuart, but its judicial character gives to his speech on that occasion a gravity and importance that must render any erroneous views he has taken exceedingly unfortunate. It would take much of extravagance to lessen in the smallest degree the great respect entertained for Mr Campbell by his fellow-citizens. In addition to the warm personal esteem with which he is regarded, the most implicit confidence is reposed in his official integrity and zeal; but in this charge we regret to say that he has assumed positions wholly unwarranted by any legal necessity, and wanting that equitable and common-sense regard to the exigencies of society which in every free country should mould and fashion the action of the judiciary. The judge is reported to have stigmatized the execution as an outrage, without excuse or palliation, and every person who in any manner acted, aided, abetted, or assisted, or counselled, or encouraged, as undoubtedly guilty of murder. We remember in this city many instances within the last year wherein good worthy citizens, who had never offended against the law, and were useful members of society, were foully murdered for gold; we remember when Captain Jarvis, than whom a more manly, honest, kind-hearted man never lived, was struck down by the knife of the assassin at his own door,

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with his infant in his arms and his wife by his side; the murderers were never stigmatized by the presiding judge with half the rigor exhibited in this charge of Judge Campbell against the Vigilance Committee for the public execution, after a fair trial, of a desperado whose life from childhood had been a long series of bold and successful crimes. Now we will take these two homicides, phrasing them legally, and we ask Judge Campbell if by any process of reasoning he can satisfy any rational being that one is equally culpable with the other? Again, the severest punishment which could be inflicted on Stuart was death. The punishment of murder is death. But crimes deserving an equal punishment should be of equal atrocity; therefore, in Judge Campbell's view, there is no difference in guilt between the member of the Vigilance Committee, who never committed a crime in his life, but who was present at the trial and execution of Stuart, and Stuart himself, whose soul was callous with a thousand crimes. Can he prevail upon any grand jury to entertain so extraordinary a proposition? But this is absolutely nothing to the inconsistency which follows. We believe there are between eight and nine hundred men in the Committee. Besides these there were at a low calculation two thousand five hundred persons present at the execution. It is quite safe to say that three thousand persons witnessed the occurrence. These three thousand persons did not make an effort to arrest it, did not protest against it, did not by voice or gesture or word or deed oppose it. They are, therefore, accessories, and according to the judge's charge undoubtedly guilty of murder. He adds that it is the sworn duty of the grand jury, a duty they cannot evade without perjury, to do their part toward bringing those persons to punishment—that is, to indict them for murder. If, then, it be the duty of the jury to indict them for murder, and if they be guilty, as the judge solemnly pronounces them to be, it is not for the idle ceremony of an indictment and trial, it is with a view to their punishment, that the grand jury are instructed to bring in an indictment against those three thousand persons, and the punishment of murder is death; therefore it is the punishment by death of three thousand citizens which the judge's charge involves, or, omitting the spectators, of nine hundred men composing the Committee, and all for such a man as Stuart, a thing of course never contemplated by so kind-hearted and benevolent a gentleman as Judge Campbell, who, apart from the discharge of his judicial functions, estimates, we have no doubt, as highly as anybody the beneficial results of the Committee's action. The judge could not then have charged the jury with the intention of having inflicted on these nine hundred men the punishment of death; and therefore his charge, so far, could not have meant anything. But is it a fit time to make charges that mean nothing, replete, too, with unmeasured denunciations of a large body of citizens? We have not space to take up all the points in the judge's charge, but passing by minor things we come to this sentence: 'It seems to have been done for the express purpose of hurrying on a collision between the courts and all fond of law and order, on the one side, and the association referred to on the other.' And a collision would have involved most probably the loss of many valuable lives; and it is of this monstrous crime the judge accuses the Committee! Can he entertain the belief that a purpose so fiendish would have been coldly determined upon by nine hundred of our most esti-

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mable citizens? But the judge charges the jury that such seemed to be their intention, and according to the order of the charge the indictment would be for wilful murder, with intent to commit a breach of the peace. What shall we say of this charge but that we reject it as apocryphal, and that we must believe the report to be inaccurate and unjust. After all, let us ask in all candor what moral wrong has yet been done by the Committee? Society has been freed by death from two pests who made a livelihood by the death and robbery of the citizens. Four men who kept places of rendezvous for murderers, burglars, and incendiaries have been sent out of the country. Has society lost by the occurrences? Is there anything connected with the lives of those executed which can excite sympathy, or of those banished to cause regret for their exile? The lives of those two men were long since forfeited to the law, and any citizen would have been justified in killing them who had detected them in the perpetration of any of the hundred crimes their hands were stained with. Had the law been administered properly they would have long since died by the hands of the executioner. What moral wrong, then, has been committed? The law has been violated, it is answered. Ay, the law; but the Sabbath was made for man, and not man for the Sabbath, and the citizen is not made for the law, but the law for the citizen; and whenever the law becomes an empty name, has not the citizen the right to supply its deficiency? What more shall we say but that, though differing on every point from the views held by Judge Campbell in his charge, we nevertheless would not breathe a syllable to shake the confidence that is justly reposed in him, and which he has already earned by his learning, industry, and integrity, and his freedom from all vices, faults, and defects which disfigure the character of other members of the judiciary."

H. S. Brown, associate justice of the court of sessions, viewed the matter in a most sensible light. The day after the execution of certain criminals by the Vigilance Committee he sent in his resignation, and for the following pertinent reasons:

"Notwithstanding scores of criminals have been tried, convicted, and sentenced, and the criminal calendar nearly cleared, yet the people, without the form of law, arrest, try, and execute their fellow-men. Twice, yea thrice, has this been repeated while the court was doing all in its power to arrest crime and bring offenders to justice. On each of these occasions the cause assigned has been the inefficiency and weakness or corruption of the courts. Now if the people have lost all respect for those who fill judicial places, believe them corrupt, capable of being seduced by glittering gold, or if they expect that courts, acting under the solemnity of an oath, can wilfully violate the first principles of law, and disregard testimony, then I hold that it is the duty of the members of the various courts to resign their position, that new ones may be placed in their stead in whom the people have confidence, or elect those who have no conscientious scruples in punishing those who may be charged with crime, whether convicted legally and in accordance with the testimony or

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not. After the scenes of yesterday, coupled with the avowals as to the cause as they appear in our public prints, I would not longer occupy the position I have had for the untold wealth of California. I trust, sir, the storm-cloud may pass, that order and harmony may reign; but I tremble lest indiscretion plunge us into scenes of bloodshed and discord."

John McDougal, governor of the state, being duly informed of the condition of affairs, in conformity with his duty issued a proclamation warning all good citizens to abstain from unlawful acts and from unlawful combinations. But upon examination he seemed satisfied that the work proposed by the Committee would be beneficial to public interests, and that an armed opposition would be harmful; and it was so agreed with the executive that the work should go on, and that he would interpose no active opposition on the part of the state so long as the operations of the Committee should be confined to the sphere indicated, unless something then unforeseen should compel him to adopt a different course, in which event he would give them due notice.

Accordingly, throughout the active existence of the first Committee, the governor properly maintained the attitude of nominal opposition only, thus to maintain the dignity of the state, but found no occasion to resort to active measures against the Vigilance Committee.

The governor was severely reprobated as a generally bad character by the press and people both of the cities and of the country. Yet so far as his official acts and attitude toward the Vigilance Committee are concerned, I cannot see wherein he overstepped the bounds of magisterial propriety, unless, indeed, it was when he approved in words of the doings of the association and bade them God-speed.

It was not, however, his pretended opposition to the vigilance movement which was contemptuously regarded, but the ease with which he pardoned notorious offenders, convicted after great labor and expense.

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Following is the governor's manifesto:

"EXECUTIVE DEPARTMENT, VALLEJO, July 21, 1851.

"*To the People of the State of California:*

"It has been represented to me that organizations of citizens styling themselves vigilance committees have been formed in various portions of the state and assume powers inconsistent with the existing laws, and serious apprehensions are entertained of collision between the constituted authorities and the citizens thus organized; and it becomes my duty to take some step by which so great a calamity may be averted. It is earnestly hoped that a few simple and practical suggestions may serve to secure this desirable end. No security of life or property can be guaranteed except the constitution and laws are observed. Let these be forcibly dispensed with, their sacredness violated, and submission to their authority refused, and we are reduced to a state of anarchy more dangerous in its tendencies and probable results than the worst laws under our system can possibly be, no matter how corruptly administered. We are just entering upon our career; our character is not yet formed, and people from all climes and all countries are flocking to our shores. It then becomes us to take no unadvised step which shall retard our progress now or prejudice our claims to a high and commanding stand hereafter. But more than this, we owe it to ourselves to impress upon the strangers who have settled amongst us, unacquainted with and perhaps entertaining prejudices unfavorable to the practical operation of our peculiar institutions, that our government is a government of laws, and that though they may sometimes prove inadequate, sometimes operate oppressively or be administered corruptly, the remedy is not in a destruction of the entire system, but is to be secured by a peaceful resort to those constitutional means which are wisely afforded to reform whatever abuses may exist and correct whatever errors may have been committed. The occurrences of the past three or four weeks, the apprehension of individuals within the jurisdiction of legally constituted tribunals, their trial, sentence, and execution, without authority of law, by a voluntary association of citizens, who thus virtually place themselves above and beyond all law except that prescribed by and for themselves, will prove sufficiently prejudicial to our interests abroad, commercial and otherwise, if such organizations, assuming such unquestionably dangerous powers, were now dissolved; but if continued there is no calculating the extent of the injury which may result to us as a state. The dangerous tendencies, in other respects, of organizations of the character under consideration, the excitement produced in the public mind consequent upon their action, resistance to the constituted authorities, which must almost inevitably result, and threatened collisions between themselves and officers of the law in the execution of their duties, cannot but be appreciated and deprecated by every right-thinking and patriotic citizen of the state, and need not, therefore, be dwelt upon here. Whatever may have been the exigency heretofore existing, requiring, or supposed to require, the adoption of extraordinary measures on the part of the citizen, it has now happily in a great degree passed, and such measures should, on this account if on no other, be at once abandoned.

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Another criminal code, with more efficient provisions, attaching adequate penalties to the commission of offences, and directing a more prompt and effective administration of justice, has gone into operation. Courts are now enabled to try, sentence, and execute as the offence deserves; safe and secure prison houses are being provided, and the officers, there is reason to believe, are ready and anxious to discharge the high duty imposed upon them by the people. I cannot do less, therefore, than earnestly recommend to my fellow-citizens everywhere throughout the state to aid in sustaining the law, for in this is our only real and permanent security. Associations may be organized, but they should be formed with the view to aid and assist the officers of the law in the execution of their duties, and act in concert with the civil authorities to detect, arrest, and punish criminals. By pursuing this course much good may, and undoubtedly will, be accomplished, and all the dangers which threaten unlawful assumptions of power thus averted. Inefficiency will not then secure impunity to crimes, nor dangerous criminals be permitted to go unwhipped of justice. It is my sworn duty to see that the laws are executed, and I feel assured that all good citizens will cordially coöperate with me in its discharge.

"JOHN MCDOUGAL, *Governor.*"

On this the *Herald* of July 23d remarks:

"This communication is styled a proclamation by the democratic organ, but we presume this to be a mistake. It doubtless was not intended as such by the governor, as it bears none of the marks or signs of such a document, except that it is rather weak and is dated from the executive department. The suggestions, for any practical effect, are as harmless as a bread-pill, and being emanations of the executive mind they will doubtless be received by the people to whom they are addressed with respectful indifference accordingly. We are by no means disposed to find fault with the governor for putting these suggestions on paper and publishing them. It is not every governor who has sufficient strength of mind to enable him to resist the temptation the occasion throws in his way of uttering half a column of wise saw and modern instance advice; and the fact that the premises on which this counsel is based are erroneous, or rather that the necessity urged for its utterance is imaginary, but renders its promulgation the more innocuous. The letter is a very mild letter, and in its tenor pointless and Pickwickian as could be desired. If all Governor McDougal's official and unofficial acts are as innocent as this epistle, he will go out of office a very popular governor indeed. The governor, however, as we have said, falls into a grave mistake. He alleges that apprehensions are entertained of a collision between the constituted authorities and the citizens, and declares his suggestions are thrown out with the view of averting this calamity. We assure the governor that such apprehensions are wholly groundless, and the authorities, if they entertain them, may set themselves entirely at rest as to the occurrence of such a catastrophe. The Vigilance Committee have avoided it from the commencement. They have treated the writs and other process of the courts with marked respect and deference. The officers of the law have been received

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at the committee rooms with signal courtesy, and no interference has been attempted with the culprits already in the hands of the judges. If any effort has been made to produce a collision it has not been made by the Committee, and should any yet be made and be successful, it will be without their instrumentality. But of such a result there is not the slightest probability, and indeed scarcely a possibility. The moderation which has hitherto characterized the course of the Committee will still mark their progress to the end. Their prudence in the past is the strongest guaranty for their prudence in the future, and the band of criminals which infested our community being at length broken up, the functions of the Committee will by degrees assume the character not only of a detective police but also of an organized censorship of the courts. We cannot believe, then, that the authorities will seek a collision with the Committee, as there will be no pretext for such a course; and both parties strenuously avoiding it, the governor will see that there exists absolutely no necessity for his suggestions. It is needless, therefore, to go into the merits of his advice. One impression of the governor we desire to set right. He says there is every reason to believe the judges are ready and anxious to discharge the high duty imposed on them by the people. This is but partially correct. The community have every confidence in Judge Campbell; they have none at all in Judge Parsons, and so of others. Let the obnoxious judges resign the trust they have abused, and there will be no necessity thereafter of executive pronunciamentos to uphold the dignity of the bench."

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CHAPTER XXII.

WHITTAKER AND McKENZIE.

"Arcades ambo," *id est*, blackguards both.

Byron.

HETHERINGTON, in his evidence at the trial of Stuart, gave one Sam Whittaker the credit of being the smartest thief in the gang. He had been transported for life in 1836, and sent from England to Sydney, there to figure as a gentleman and prince among the convicts. However proud Whittaker may have been of his talents among friends, he did not relish their discussion before the rogue-exterminators, with a manacled comrade doomed to death standing by to give particulars. So he thought best to take a trip down the coast. Assuring the delectable Mrs Hogan that he would meet her at San Diego, he started on his journey by land. But the vigilants were soon on his track, and the authorities along the route had warning of his approach; he thereupon changed his tactics and went north, to throw them off the scent, still determined, however, when once he had baffled them, to proceed southward. His movements were followed, and McDuffie and others were appointed a committee to go in search of him. They went first to Stockton, and thence to Chinese Camp. They scoured the country round Jamestown, Georgetown, and Shaw Flat, hearing of him occasionally but without further success. From the Stockton Committee of Vigilance they took a letter to the Vigilance Committee of Sonora, where every facility and encourage-

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ment was given them. Their search, however, was fruitless, and they returned to San Francisco and reported to the executive committee the 19th of July.

All the while the game was in the neighborhood, eluding search. Hetherington was right in giving Whittaker credit for ability. It was a most difficult and dangerous feat, that of flitting from place to place among a community of armed miners, every one a self-constituted special police. But Whittaker did not leave Sacramento until the 29th of July. He then took a southerly course, and all went well as far as Santa Bárbara. There he was recognized, arrested, and sent back by steamer to San Francisco.

One morning—it was the 11th of August—as James C. L. Wadsworth was sitting in his office, in the old California Exchange, on Kearny street, Joseph C. Palmer, of Palmer, Cook, and Company, entered and stated that Sheriff Hearne of Santa Bárbara county had a moment before been in his office, mistaking it for the office of Colonel Hays. He had brought from Santa Bárbara a prisoner named Whittaker, whom he wished to deliver to the sheriff of San Francisco county. Palmer explained to him his mistake, directed him to the sheriff's office, and then immediately stepped over and informed Mr Wadsworth.

Whittaker was then on board the steamer *Ohio*, lying at Long Wharf. Wadsworth hurried down, and meeting on the way James F. Curtis, induced him to assist in taking Hearne's prisoner to the Committee rooms. Arrived at the steamer they found the captain at breakfast.

"Captain," said Wadsworth, "you have Whittaker on board."

"What's that to you?" growled the captain, in affable *basso profundo*.

"We want him," said Wadsworth, significantly.

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"Have you authority to take him?" grinned the captain.

"Yes."

"Go down in the hold and get him."

Descending, they found Whittaker with his legs ironed.

"Get up and come with us," said Wadsworth.

"Where to?" demanded Whittaker.

"Up town to a safe place," replied Wadsworth.

Whittaker assented, but on reaching the wharf held back.

"Where are you going?" said he.

"Come along; it's all right," was the reply. He went without further opposition, hoping, yet fearful, and was marched straight to the quarters of the dread Committee of Vigilance.

When Wadsworth returned to his office the Santa Bárbara sheriff was there awaiting him. Hearne was neither offended nor chagrined, but seemed to accept what had been done as right and proper. He seemed only concerned about pay for expenses incurred in bringing up the criminal; and when Wadsworth told him if he would execute a writing formally delivering the prisoner into the hands of the Vigilance Committee he would pay the amount, Hearne unhesitatingly did so, and Wadsworth immediately paid him the money.

On the next page is given a *fac-simile* of the bill by the steamer *Ohio* for the passage of Hearne, his deputy, and Whittaker.

Another old offender, Robert McKenzie, or McKinney, was caught and incarcerated, and Mrs Hogan was made to attend the call of the executive committee. McKenzie and Whittaker both made confessions, each unknown to the other. The confession of each was submitted to the other, and both to Mrs Hogan; Stuart's confession was likewise submitted to all, and all were verified. McKenzie, who was arrested at Sacramento, had taken part in the Minturn safe

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robbery, and made the tour of Trinidad. A number of persons about this time were shipped out of the country; one Otis, a horse-thief, was convicted and hanged by the people at Monterey.

There were two classes of the Sydney fraternity, representing the brain and muscle powers respectively. The former active, bright, and shrewd, skilful in plotting and bold in executing; in conversation intelligent, in manner affable, and in dress genteel. These were the leaders. Those of the other class were inferior and born to obey. The former were gentlemen forgers, highwaymen, and safe-robbers; the latter bruisers, slung-shot strikers, and pick-pockets, of low tastes and brutal demeanor. To all these homeless and forlorn rascals California was a godsend; a worthy land; a country fit to rob, and—be hanged in!

Whittaker, like Stuart, belonged to the knightly order of scoundrelism; McKenzie was base-born and churlish. Ryckman says: "McKenzie I took to be an Irishman; he was a miserable specimen; a monstrous, cowardly wretch. Whittaker was as brave as Cæsar; he was the only man whose execution I regretted; he exhibited so much manliness that he won my admiration."

The Committee now began to surrender its criminals to the courts; and the alacrity with which the law seized its prey showed present hunger and fear of famine, while the new life infused into dry bones and the rapidity of movements under the stimulant given by the Committee, and the fear of ultimate loss of occupation, was wonderful to see. Instance the case of Jimmy-from-Town, one of the Stuart brotherhood, surrendered by the Vigilance Committee to the sheriff at one o'clock on the morning of July 24th, 1851, and by eleven o'clock the same day the grand jury had found an indictment, and had the trial fixed for the following day.

About one o'clock on the morning of July 21st Charles Duane, sometimes called Dutch Charley,

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Knight of the Bloody Fist, with Ira Cole, his squire, forced his way into a dancing-room on Commercial street, and denoting his intention to kill a Mr Ball, who had called in question the purity of the shoulder-striker's reputation on certain occasions, proceeded forthwith to attack that individual. After permitting the man of injured honor to knock down and nearly kill his enemy, the company finally placed him under arrest. He was tried and convicted of assault with intent to kill. But was he punished? This was an aggravating case. Duane was an old offender; the assault was made with scarcely any provocation. The desperado, being angry, sought the shortest way to relief. He had caused the community and the Committee much trouble at various times. He was arrested and tried; objections were made to every member of the Vigilance Committee summoned to serve as juror.

The courts, though gladly accepting aid from the Committee in the capture of criminals, still regarded its members more in the light of outlaws than good citizens. Convicted at a term of the court of sessions of assault with intent to kill, Duane was sentenced to one year's imprisonment, but was pardoned by the governor. The pardon called forth several adverse comments from the press, and the people at large were disappointed. "Qui pardonne aisément, invite à l'offenser," says Corneille. But little cared McDougal for abstract principle. Could he be governor and leave a friend in prison? Says the *Herald* of the 10th of September:

"In the law intelligence will be found a report from the grand jury, presented yesterday to the court of sessions, censuring the executive for the extension of a pardon to Charles Duane. Although we do not hold that the governor of the state is bound on every occasion to vindicate his official acts in the public journals, yet as Governor McDougal has already, in one instance, made a public statement in justification of his reprieve of Robinson, we think he should, in justice to himself as well as to evidence his respect for public opinion, state publicly the reasons which have moved him to this exercise of clemency, and the names of the citizens who signed the petition for this man's

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discharge. We think so, because there is a strong feeling of dissatisfaction in the public mind at Duane's liberation; and in proof of the existence of this feeling we would refer the governor to the report of the grand jury. This city has recently passed through scenes of fearful excitement; the man Duane committed an offence which brought down upon him the intensest popular indignation. The measure of his punishment, one year's imprisonment, scarcely answered the requirements of this indignation. That this period should now be shortened by the interposition of a pardon, has generated, as we have said, a feeling of deep dissatisfaction.

"God forbid we should be supposed desirous of interposing, as the advocate of unrelenting justice, between the active exercise of humane clemency and the man hurried by passion into uncontrollable excesses, and afterward contrite and repentant of his infraction of the law.

> 'The quality of mercy is not strained;
> It blesseth him that gives and him that takes;
> It is an attribute to God himself,
> And earthly power doth then show likest God's
> When mercy seasons justice.'

"But here is a man regarded by the community as dangerous to its peace, so constituted by nature as to be unable to curb his own propensity to mischief, and therefore most unfit to be flung into an inflammable society, where even the voice of the courts, hitherto tardy in administering justice to the culprit, has adjudged him incapable, without evil consequences, for twelve months at least, of mingling freely with his fellow-citizens.

"The grand jury in their report say that 'the late act of the executive of this state in pardoning a certain criminal after he had been tried and convicted of a wanton assault on a citizen, whose only offence consisted in a desire to discharge his duty to the public, is such a monstrous abuse of the pardoning power as to cause serious alarm. If the prisons are to be thrown open at the will of the executive to men of such character, the judgment of the courts, while acting in behalf of the people, will be set at defiance; all protection to unoffending and peaceable citizens will be withdrawn, and grand and petit jurymen will have to protect themselves, not by the laws of the state, but by force of arms.' When asked to give the names signed to the pardon the governor declined."

When Whittaker was brought into the Committee room, Payran as usual began to examine. But the arch-inquisitor on this occasion was evidently not in his usual happy catechetical mood. The bloody brothers, as against the world, were most lovingly united; but among themselves they enjoyed their own little infelicities. *Sub rosa*, Mr Payran was not in possession of his full magnetic powers that day. Applying the loadstone of his wit to the porcelain surface

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of the versatile Whittaker, no sediments of sin adhered to it. A short, hollow negative was the only reply he received to every question. To threats he was as imperious as a steel-clad warrior to a shower of feathers. Finally Ryckman took the impotent inquisitor aside and said: "Payran, this won't do. That is no way to examine this man. You cannot intimidate him. Do you not see that he is strong-willed, fearless, and of iron nerves?"

"Well," replied Payran, "examine him yourself, if you like."

"Very well," exclaimed Ryckman, "I will do it. I think I know more of human nature than you do—to-day, at all events."

These society-weeders, some of them, entertained no mean opinion of themselves. With experience and power came pride of opinion, in which garb they did not always appear to their best advantage. Ryckman took a seat beside Whittaker and began:

"What is your nationality?"

"I am an Englishman."

"Have you a father living?"

"Yes."

"A mother?"

"Yes."

"Any sisters?"

"Two," said the poor fellow, already softening.

"Whittaker," said Ryckman, earnestly, "what must be the feelings of your father, mother, sisters, when they learn of the awful acts and end of one they love: convicted and executed for infamous crimes in a foreign land? Think of it—misery, disgrace, death!"

"O God!" he cried, as if now, with the tears that began to flow, his soul was wrenched from its fixedness in sin, "I have been bad, very bad; but let me tell you about it."

"Stop," said Ryckman. "Listen to me. Do not make any confession with the expectation that it will mitigate the least your punishment if you are found

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guilty. I feel for you, but feeling and duty I divorced before entering upon this mission. I will leave you now and return in an hour."

Ryckman sent him a mug of ale; then he took a position at an aperture in the partition where he could watch him unobserved. The prisoner seemed much disturbed, and at times apparently suffered great agony of mind. Solitude seemed unendurable to him. Long before the hour had expired, the door-keeper appeared.

"Whittaker says he must see you."

"What is the matter, Whittaker?" asked Ryckman as he entered the room.

"Mr Ryckman," he exclaimed, "you are the first man who has ever touched my heart. The world has hunted me as if I were a monster; you alone have spoken to me as to a human being. I must make a confession to you; if not, I shall burst."

This man and McKenzie were tried by the Committee in the usual way. But the great ulcer having been opened through the medium of the arch-thief Stuart, the later trials were void of interest or excitement. The confessions are worthy of perusal by those who care to know the character and course of criminality in those days. What Whittaker says of himself runs essentially as follows:

"I left Sydney about two years ago by the ship *Louisa*, Captain Malor; I arrived in San Francisco in August, 1849; I got my freedom from Governor Fitzroy; it was a conditional pardon. The first business I began in San Francisco was as steward in a public house kept by Cockstein, on Broadway; I was in his employ about three months. After leaving him I bought a horse, cart, and boat; employed men to work the team and boat for two months. Then I went to butchering in Happy Valley, and carried it on for a year; afterward kept a public house on Jackson street, near Sansome, known as the Port Philip House, with McCormick; I gave it up at the end of two months.

"My name of Samuel Whittaker is assumed; it is the name under which I was transported. I desire to suppress my real name for family considerations, and as an act of humanity. I began my career of crime in San Francisco at the time I formed my connection with McCormick in keeping the Port Philip House. Before this, while butchering, I used to ride my horse two or three times a week to the Mission Dolores to purchase cattle. Sanchez offered me

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a splendid mare at one hundred and fifty dollars, which I refused to buy on account of price. James Curry came to me and said the mare was his. Finally I bought the mare, saddle, and bridle for one hundred dollars, and Curry came in with me. I paid him, taking a receipt for the same, then rode the mare around; while doing so a man stopped me and said the mare belonged to Dutch Charley, was stolen, and had been advertised. Finding this true I gave up the mare and looked for Curry; found him, altered in dress, about to leave town. I took him to Elleard's, and there charged him with stealing the mare and demanded my money back; he gave me sixty dollars. Then I took him to Dutch Charley; Charley knocked him down and took him to the station-house. The sixty dollars was taken from me, to be handed back after the trial.

"I was summoned; attended court; the trial did not come off. Jack Hays put me on a jury to try a man charged with stealing a pistol; we found him guilty, and he was sentenced to two years' imprisonment for this trifling offence. Court adjourned; I was again summoned to attend court. I did so. Curry had been let off; his case was never tried. I demanded my money; the officials asked me how long since I had given it up. I said about sixty days; they laughed, and said it was lost in half that time. I mention this to show how justice is administered here. It seemed to me that a thief had a better chance than an honest man. This took place in Levi Parsons' court, who was the judge.

"The first crime of which I was guilty was that of robbing a bear-hunter, named Vyse, the other side of the Mission. In that matter McCormick, McKenzie, Osman, Morris Morgan, and two Kings, were engaged. I knew the bear-hunter, and McKenzie also knew him. McKenzie took the man into another room; Morgan carried off the money, nine hundred dollars or thereabout. When the bear-hunter came back to the room he found he had been robbed; we professed we knew nothing about it. The money was carried to King's house, corner of Broadway and Montgomery streets; but in coming into town one of the party stole six hundred dollars; when the balance, three hundred dollars, was divided among us we only got thirty-five dollars each. The money taken from Vyse belonged to Kelly the fighting man; shortly after McKenzie went to Sacramento and told Kelly who it was that robbed him. Kelly came down from Sacramento on this information, and had McCormick arrested and put in jail; I was then at Monterey. They threatened to lynch McCormick, and got from him some instrument by which they sold out the Port Philip House to reimburse the loss. After this I went down to Monterey with Briggs and Osman; while I was there T. Belcher Kay came down; Osman, Kay, and I went to San José; there Kay had the delirium tremens. Osman went to San Francisco, where he met McCarty and McIntyre, who told him to bring Jim Briggs, Morgan, and me from Monterey, as they had a house to do that would yield forty thousand dollars. We all went to San Francisco; I went in the *Goliah;* after receiving information as to which house it was, we all went to look at it. Finding that Jimmy-from-Town was engaged, I refused to have anything to do with it; Morgan and Briggs also refused. I think the house was that of Schloss Brothers; it was nearly opposite the old custom-house. At this

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time T. Belcher Kay was interested in arranging the robbery of the jewelry establishment and other places.

"After this we arranged the robbery of Jansen's establishment; Jansen lived next door to me. Many persons from the colonies frequented my house, and on learning that the country generally wanted sovereigns Jansen told me that he usually had them, that he would be glad to sell them, and would be obliged to me to take them. Morgan went with me into Jansen's to buy some sovereigns; this first gave rise to the suspicion that Jansen had a large amount of money. Jansen was about to move; Stuart, Edwards, McCormick, and I planned this method of robbing him: one of the party slipped a linchpin out of the axle of the cart, on which the trunk containing the money was to be carried, expecting that by so doing the wheel would come off, and on its falling we would seize the trunk. The cart was loaded; Jansen's clerk sat on the trunk with a candle in his hand; the linchpin was pulled out, but the wheel did not come off, and we were disappointed. Some time afterward, Stuart, Briggs, Edwards, McCormick, Kay, Hughes, Morgan, and I planned the robbery of Jansen again, when we had better success.

"While at the Port Philip House a man came in and asked me to trust him for something to drink; I told him no, but I would give him a glass of grog; he drank the liquor, after which he said to me, 'You are a damned clever fellow,' and gave me three hundred dollars to keep for him. Afterward he called for the money; he was inebriated when I gave it to him. There was a man present whose name can be found on the records, but which I forget, who robbed the other fellow of his money and cleared out; on the Sunday night following he came back to the house; I spoke to him about the money he had taken from the man, and asked him 'Where is my share?' He told me that he had left my part of it in the man's pocket for me to get. I said, 'You wait until McCormick comes in.' However he and another man closed upon me. I knocked them down and broke the jaw of one in three places. He prosecuted me for assault and battery. I was arrested, and employed Mr Wells; the case was tried; I was fined one hundred dollars, ordered to pay the doctor's bills, and to be imprisoned ten days on the prison brig. I had paid Wells one hundred dollars counsel fee; I told him and Tilford also that it was inconvenient for me to leave my business, and that I should like to compromise. Wells said it could be compromised for two hundred and thirty dollars, which amount I paid. I state this case, also, to show the manner in which the laws are administered, and the corruption. If it had not been for the manner in which I had been treated, and had seen others treated, I should not now be here.

"The next matter in which I was interested and will bring before you, was that of Windred and Burdue. They were tried for having robbed Jansen, and convicted, but they had nothing to do with it. I exerted myself very much to save them; I told Parburt they were innocent, but did not tell him who were guilty. I had a long argument with Mr Theodore Payne about it. Stuart, and indeed all engaged in the Jansen robbery, and many others, declared their intention to burn the city in case Windred and Burdue were executed; it was to be fired at night in four or five different places. It was the only time that I ever heard the colonial people speak of burning the city.

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"The next robbery planned by us was that of C. Minturn. Kay planned this. Stuart was with us. I was not interested in the robbery of the ship *James Casket*. We tried to rob Macondray's store, but it fell through. Kay put up that job.

"Kay also put up a jewelry establishment in a brick building on Sacramento street. I went through the premises and examined them, but declined doing it, on the ground that to effect the robbery it would be necessary to murder perhaps four or five persons. Kay is an ignorant man; he can scarcely read or write; his real name is Gibson.

"McCormick, Stuart, and I went together to shoot a man by the name of O'Flaherty, who had testified in court that McCormick had robbed him in the colonies; he was going to shoot him for it. It was a moonlight night; I said to McCormick that it was too light, and that it would be better to wait until some other time; so he gave it up. I did this to save the man. O'Flaherty lived then in Bryant place. Since the May fire Jack Arrentrue met me on the street; he had frequently been told that I was a very clever fellow; Arrentrue has been after me many times, and pointed out several places to me; I never would engage in anything with him; he took me down and introduced me to a man by the name of Earl. We drank together and then went down to the custom-house; Arrentrue described it to me; said there was eight hundred dollars there; we looked at the drain. Then we went to the other custom-house; he took me inside; we looked at the safe or vault that was building; Earl proposed renting the house next door to the custom-house and opening an architect's office in it, and getting Watkins, and we could rob the building from his office. This was practicable; we went to see Watkins. Our plan, however, was not accomplished.

"Arrentrue and Earl proposed to me to rob the El Dorado; they urged that the interest they had with the authorities would cover our operations. I had got sick of all such work, and made up my mind to leave off, and took no further notice of it. Arrentrue and Earl used frequently to come to my place at Mr Hogan's, and dine with me and play cards. Earl showed me a pair of calipers that he had, and told me they were very useful. Earl told me what a very clever thing he had since done with the calipers. He said that he opened a door, went into a man's room, took the money from under his head, went out, relocked the door, and it was never discovered.

"I was at Marysville at the time of the June fire in San Francisco, but came down immediately. I lived with Mrs Hogan as her husband for four months, during her husband's absence. I knew her in the colonies. I have heard it said that Mrs Hogan had been transported. I told Mrs Hogan about Arrentrue and Earl's proposition; she imagined that I was engaged in robbery. To do Mrs Hogan justice, I must say she has done all in her power to break up my associations and to make me lead a different life. I paid her twenty dollars a week for my board; I also gave her many presents, about twenty-five hundred dollars in all. Mrs Hogan knew all the men that I have mentioned; they used to frequent her house. I was in no business. I derived the money thus: I won seven hundred dollars from Stuart at monte, and I had fourteen or seventeen hundred dollars by me that I had saved while I was a butcher.

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"George Adams, McCormick, Hughes, and McKenzie robbed Duzozo on Sacramento street, below Kearny; it was on the south side, and was early in the evening in September or October; it is said they got about fifteen thousand dollars. I was absent at the time.

"I won of Hetherington's companion six hundred dollars; his name was Dan; I won at thimbles. Edwards and myself had been associated; Jones, who had made his escape from Marysville prison, wanted a share of it. As Edwards, Long Charlie, and I had won it together, I objected; a man by the name of Gallagher took up the matter for Jones, and went to my bedroom at Mrs Hogan's on tiptoe, with a drawn dagger, to look for me. Mrs Hogan told him I was not there; there was considerable talk about his going around trying to kill me. A day or two after Gallagher was found dead on the street by Edwards' house; I think that Gallagher knew too much about Edwards' business, and for that reason Edwards poisoned him. I was at the Mission, at Dr Lambert's, at the time Gallagher was looking for me. Mrs Hogan came to me with a letter from Judge Bowie to take to Monterey; it contained certificates of money that Briggs, Morgan, and Osman have in the banks of San Francisco; I delivered up the documents to Parburt. The Monterey trial came on that week; Stuart was there; I think he came down to shoot me either for my money or for jealousy. I knew all about the robbery at Monterey; I loaned Osman, Briggs, and Morgan one thousand dollars. Quick put up the Monterey custom-house for robbery; Ryan was one of the party, and the only one who received any benefit. I was not interested in any of the robberies of the jewelers; McCormick told me of the robberies. I believe, if you keep quiet and do not publish, that the jewelry will be recovered. Osman bought it for six hundred dollars, and I do not believe he has sold it yet.

"I gave Mrs Hogan twenty-one ounces in gold for my board at one time; I had loaned that amount to Osman, and he returned it. The last money I got was twelve hundred dollars, which I gave to Mrs Hogan. This is the way I got it: There was a miner came into Mrs Hogan's house, on Sansome street; Kay, Edwards, and I were there at the time. The miner laid down a large bag of gold; Edwards and I took the money out; I secreted another bag. Edwards and McCormick took the miner off; he had five or six hundred dollars more, which they got away from him. I took the bag containing seven hundred dollars, and divided it with Kay and Edwards, giving them each two hundred dollars, and keeping three hundred for myself. The other bag, containing eight hundred dollars, I did not divide, as they gave me no share of the money that had been taken from the miner. The whole amount I gave to Mrs Hogan; she knew how I got it; she knew we were treating him to champagne in order to effect this purpose. I told her what our plans were. I also gave her about three hundred dollars which I won at gambling with Dan; and the same amount paid me by Briggs of the money I had loaned him I gave Mrs Hogan. I exchanged watches with her; mine was the most valuable. I also gave her a diamond ring.

"T. B. Kay, when port-warden, took McCormick on board a man-of-war in the harbor; the captain possessed a very valuable gold lever watch with a snake chain. While the officer was asleep McCormick stole the watch; he carried it with him when he went to London; I have no doubt it might be

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recovered. Kay knew that McCormick had taken it; he afterward was sorry about it, as the captain said he wouldn't have taken one thousand dollars for it, as it was a present from his father. If the Committee write to Dan Forrester of London, or to the chief of police in Manchester, they will send McCormick and the watch back again.

"Old Jack, *alias* Morris Morgan, told me that Hughes did it with two flats—robbed the Dupont-street jewelry store; Hughes was apprehended for it and acquitted. I don't know where he is; he may have gone out of the country. I was told that he took away all of that jewelry. One night it was stated that some of the Vigilance Committee met him; Old Jack knocked them down and jumped a fence. In doing so he said he lost some of the jewelry; amongst it was a small watch, which was found in a hat next morning. Hetherington and I were at Mrs Hogan's at the same time. Hetherington told me that his partner, Antone, was a passionate man; he killed two men; I saw him kill one; it was at the corner of the El Dorado, at night and in a crowd; the dagger stuck so fast that in drawing it out it pulled the man over. Two men were arrested, but nothing was made of it; Antone was never suspected.

"Stuart and George Smith told me that they shot a man on the Stockton road; the man had considerable money. He ran toward the house after he was shot, and died nearly as soon as he had entered.

"I never knew of any one setting a place on fire in San Francisco except Billy Sweetcheese, whose real name is Shears. I heard that he set the United States on fire on the Plaza at the time it was vacant. This is merely rumor. After robbing the miner alluded to, at Mrs Hogan's, we met McCarty, the policeman who was always ready to help us. I gave McCarty three ounces, one each for Edwards, Kay, and myself. I told McCarty that McCormick had got some five hundred dollars, and he must get some out of him too. Brown, in the police, was the man who did the dirty work for policemen McCarty and McIntyre.

"Billy Hughes, John Edwards, and Morris Morgan are runaway convicts. They came from Van Dieman Land. There is no comparison between the convicts from Sydney and Van Dieman Land. The latter are so bad they would not allow them to coem into Sydney.

"I got Windred away when he was under arrest with Burdue. I went to the new jail with Windred's wife and Mrs Hogan; I sent the key in; Tom Byrnes, the man you sent to Sydney, came to my house and said that Windred was out; I got up and went down to the wharf at Pacific street; George Adams and Windred were there; I told Adams to go away by himself. I took Windred to a stable, got horses, and took him to Dr Lambert's, where he stayed for two weeks; I paid his board. Dr Lambert is a man from the colonies. At the end of that time I engaged passage for Windred, and appointed a night to put him on board. I told Kitchen to stand by with his boat, that I had a man to put on board. I gave Windred my old cap, and bought a new one for myself; I put him down a passage-way at Clark Point. Mrs Hogan and Mrs Windred were in waiting; Mrs Windred in men's clothes; in that disguise I had taken her frequently to see her husband. Both women bade Windred good-by, and I put him on board Kitchen's boat, who took him to the ship. The vessel in which Windred was placed re-

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mained in port a fortnight, and I feared he would be apprehended again. Windred sent for his wife to go with him, and she went on board, and sailed with him the morning after the May fire.

"Kitchen is a rough, boatman-looking fellow, dirty, very dirty; he kept a boarding-house near Clark Point; he is a stout man, about thirty, dark hair, and heavy whiskers; he is a convict from Van Dieman Land. Kitchen has a specimen, of the value of one hundred and forty dollars, that Stuart took off the body of Moore, whom he murdered at Auburn.

"Purcell, a police-officer, used to take money; he took money of Hughes; he would take money from any one. At the primary election for Malachi Fallon I was solicited by Sweeney, McCarty, and McIntyre, to aid in the election; accordingly I did so, and got some twelve votes, all from men who were convicts and foreigners."

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CHAPTER XXIII.

THE CIRCUMVENTORS CIRCUMVENTED.

When in doubt, win the trick.
Hoyle.

At length the law, long paralyzed and puny, awoke with a spasm of energy. Election was approaching. To be or not to be, was the question. The existence of a popular organization for the suppression of crime was a standing reproach upon the honesty and efficiency of the authorities. And even in the minds of city and state officials who secretly sympathized with the Vigilance Committee it seemed necessary to uphold the dignity and sacredness of law, lest this new phase of liberty should degenerate into licentiousness.

Already given is the proclamation to the people of the state by Governor McDougal, dated July 21, 1851, calling on them to discountenance illegal tribunals and sustain the courts. At three o'clock on the morning of the 20th of August Governor McDougal and Mayor Brenham rapped at the door of Sheriff Hays and presented him a writ, issued by Judge Morton of the Superior Court, based on an affidavit made by the governor that two men, Whittaker and McKenzie, were detained without authority of law. The writ commanded the sheriff to take the bodies of the two men and bring them into court, to be dealt with according to law. The sheriff, with a posse of deputies, repaired immediately to the Committee rooms, which they entered without resistance, and while some guarded the door others advanced and called on

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the prisoners to accompany them, which they gladly did, and were soon comfortably lodged in jail. One of the guard attempted to push back the officers; two others, suspecting treachery, let themselves down from the window and sounded the alarm on the bells of the California and Monumental engine companies. The action of those in charge of the room was bitterly denounced; and such were the singular circumstances attending the rescue as to raise serious question in the minds of many if there were not collusion between the officers of the law and the officers of the Committee. Daybreak found the streets alive with excited people pouring toward the Committee rooms, where a meeting was in session and the events of the night were being discussed. Some were in favor of arising and making an immediate attack on the prison; others held that in the justice of their cause they could trust that the unholy sympathy thrown by the law over two notorious law-breakers could do the reformers no permanent injury, and they should wait. Thus in every trying event good counsel prevailed; passion, though aggravated by the chattering of apes, must be laid aside, for this was not an association for the promotion of lawlessness, and the law, though not respectable, must in some measure be respected. Therefore it was concluded to let the matter rest for the moment, to permit the authorities to indulge their innocent gambols over their little victory, hoping them thereby good. In the eyes of the sober members of the Committee the affair was but a little stratagem, made successful by the hour, and the laxity of the guard; and the very fact of the law being obliged to employ darkness and circumvention in the execution of its mandates was the surest sign of its weakness. Even now the authorities seemed half frightened at their boldness, and almost panic-stricken at the peril of their situation. How should they defend the law's majesty against the bloody-minded citizen? Turn the guns of the *Vincennes* on the vicinity of Battery

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and California streets. Parley. Bring in ordnance from the Presidio. Let the military be held in readiness to answer at a moment's notice. Proclaim an end of the reign of terror; an inauguration of the reign of law. Meanwhile the members of the Committee went about their business, apparently unconcerned in all this splutter and bombast of the officials, determined that no provocation, however severe, should tempt them to the performance of any action which should bring reproach upon them as law-abiding citizens, or upon their organization, made for the purpose of strengthening law and good government; and in this moderation was their greatest victory.

That same day appeared a second proclamation by the governor, calling upon all good citizens to unite for the purpose of sustaining public law and tranquillity, to aid the public officers in the discharge of their duty, and to discountenance any attempt made to substitute the despotic control of a self-constituted association in place of regularly organized government; warning those disposed to resist legal authority that civil war in all its horrors would be the inevitable consequence. The force of this proclamation, however, was materially weakened by a card published at the same time by the Vigilance Committee, which read as follows:

"We, the undersigned, do hereby aver that the present governor, McDougal, asked to be introduced to the executive committee of the Committee of Vigilance, which was allowed, and an hour fixed. The governor, upon being introduced, stated that he approved the acts of the Committee, and that much good had taken place. He hoped that they would go on, and endeavor to act in concert with the authorities; and in case any judge should be guilty of maladministration, to hang him, and he would appoint others.

"G. E. Schenck,
"George J. Oakes,
"Isaac Bluxome Jr.,
"S. Payran."

The enemies of the reformers were triumphant, but their victory was achieved by the humiliation of the country's best friends. Very early one Robinson,

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of the Adelphi Theatre, mounted a box, and in an inflammatory and ill-advised speech urged an immediate attack on the jail. The crowd then gathered separated for refreshments to the several hotels and drinking saloons, and about nine o'clock some two thousand men gathered round the prison. This, however, was but a mob; it was not thus that the Vigilance Committee did its work. About an hour later the crowd dispersed, and thus ended what at one time threatened to be a serious outbreak.

At a special meeting in the executive chambers, at 8 o'clock A. M., the prisoners Whittaker and McKenzie were reported by the prison committee as captured and then at the county jail, in cell No. 5. Thereupon a committee of five was appointed to investigate the charges preferred against the guard on duty the night previous. Meanwhile the chief of vigilant police was suspended from duty. The meeting then adjourned till 4 o'clock P. M.

Among the general committee, as might easily be imagined, there was no small commotion. Some proposed to tear down the jail; others to take possession of all the county offices. But the wiser ones rebuked them sharply. "You would eradicate your folly by committing greater folly," said they. Nevertheless there was but one sentiment, that the men Whittaker and McKenzie should be recovered.

There was a mystery attending the seizure that the executive determined, if possible, to fathom. Indeed, in common with the people at large, they could not understand how the men were abstracted without exciting more commotion. Mr Bluxome states there were a hundred members about the premises that night, tenfold more than enough to have successfully resisted the sheriff; twenty-nine men were on guard, and he was sleeping on a table in the adjoining room. A burly blacksmith, named Steele, stood guard at the door, and when Hays and Caperton knocked they were admitted without resistance sufficient to

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waken him. Mr Ryckman was not present, but Payran, placing the utmost confidence in the guard, was asleep in the executive room.

At the request of the Committee, John McDougal, governor, appeared before them at their rooms and stated that in the hotel at Benicia the day previous, which was the 19th, it was reported that the Vigilance Committee were to meet during the night to sentence Whittaker and McKenzie, and he determined to come down and prevent an execution, if possible. On arriving at the Union Hotel about noon he was told by two men who were, or professed to be, members of the Vigilance Committee, that the prisoners would be executed the following day.

On receiving this information he proceeded immediately to Mayor Brenham, and asked his assistance in rescuing the prisoners. Brenham acquiesced, and the two officials called upon the sheriff. The next thing necessary was a writ of *habeas corpus*, which, after some search for a judge, was finally obtained from Myron Norton. The party then proceeded to the rooms of the Vigilance Committee and knocked at the door, which was opened. Caperton, deputy sheriff, entered first, then Hays, the sheriff. The door closed, McDougal remaining at the head of the stairs, and Brenham below, outside the building. In a few minutes the sheriff and his deputy returned with the prisoners, without having encountered any resistance. On being asked who had given him the information at the Union Hotel, he declined to answer.

Mayor Brenham confirmed before the Committee the statement of the governor, adding that prior to the conference at the sheriff's office it was their intention to have appeared at the Committee rooms in full force, with a writ of *habeas corpus*, the following morning at eight o'clock. The mayor was perfectly certain that no member of the Vigilance Committee, or any persons other than those who came, had cognizance of their intention; nor was there any collusion,

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directly or indirectly, between them and any members of the Vigilance Committee.

Sheriff Hays stated that he was in bed when the governor and mayor called. He at first thought that duty did not demand of him interference, and asked his visitors if they knew the men were to be executed the next day. They were sure of it. He then proceeded to serve the writ, meeting with no resistance on entering the room and but little on leaving it.

J. L. Van Bokkelen, chief of the vigilant police, being sworn before the executive committee, said that pursuant to the instructions of the Committee he had proceeded to select a place for the execution of the prisoners, and had reported to the Committee, who instructed him to make the necessary detail of guards and other preparations. In the exercise of this duty it was necessary for him to leave the room twice. He had given McKenzie permission to change his linen and to shave; he had ordered the good spring handcuffs which ornamented his wrists to be taken off and poorer ones substituted, so that the good pair might not be lost to the Committee when the body should be taken by the coroner. During the consummation of these arrangements the capture was made.

P. P. Hull, on reporting for duty that night, was told to arm, which he did, and was then told to hold himself in readiness for orders which he never received. While in the refreshment room he heard a scuffling and call for the police. He ran out and found a crowd about the door, and heard the sheriff say: "We are too strong for you; we have a posse outside." Letting himself down by a rope, he came upon the captured prisoners, and cocked his pistol, but refrained from firing.

Some fifteen or twenty others were examined before the Committee, and among them Steele, the doorkeeper. This man testified that when the sheriff applied for admittance he was crowded in by those behind him, and that when the prisoners were brought

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to his door on their way out, while some placed their back against it to prevent exit, those outside forced it open, and in the melee that followed the sheriff and his followers escaped with the prisoners. The *coup de main* was so sudden that the guard became confused and hardly knew what he did.

This evidence was given before a sub-committee appointed by the executive committee, and their report was in the following words:

"The committee respectfully submit the entire evidence taken, and leave the Vigilance Committee to judge for themselves of any culpability on the part of those intrusted with the charge of the prisoners last night and this morning. Your committee, while they feel it their duty to exonerate all from the least imputation of bribery or connivance at the escape of the prisoners, feel it their duty to say that there was a great want of their usual care and of that caution which the importance of the duty assigned them required; and that they deem the chief of police especially guilty of gross neglect, and wanting in that energy and self-control which if properly exercised would have prevented the escape of the prisoners, and thereby would have saved the Vigilance Committee from the disgrace of neglect which must now rest upon it. And your committee cannot conclude without expressing their condemnation of the course taken by those members of the Vigilance Committee who were so estranged from their duty as to inform the governor of the intended action of the Committee, which rendered it imperative upon him to adopt the course he did, and which has so effectually checked the important action of the Vigilance Committee."

At the adjourned meeting the committee reported according to the facts obtained. The chief of police was instructed to keep a guard of twenty men over Whittaker and McKenzie, then in custody of the sheriff, lest either by force or connivance should escape. It was resolved that the sentence of death pronounced upon them should still remain in force.

On account of the strong feeling against him, whether guilty of actual connivance at the escape of the prisoners or not, Van Bokkelen resigned his position as chief of police, and Oscar Smith was elected in his stead. In this ballot, which occurred at a general meeting on the 26th of August, James King of Wm. received two votes, and F. Argenti and J. W. Cartwright each one vote.

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The utterances of the press did not fairly represent the sentiment of the more calm and thoughtful element of the Committee. It breathed of the mob spirit, which tended to retard rather than to accelerate the movements of the Committee, and to impair the quality of their work. Doubtless it expressed the feelings of a majority of the general committee, but not of those who were trusted and obeyed as the safe and worthy leaders of the movement. The authorities were simply doing their duty, and the Committee could not make up their minds, at this juncture, to shoot them down while in the discharge of it. The *California Courier* of the 21st of August writes:

"As soon as this wicked attempt to involve this community in excitement and perhaps bloodshed, for no cause whatever, had succeeded, the bell of the Vigilance Committee was tolled, and the members left their sleeping-chambers for the Committee rooms. The excitement was tremendous. There are Judases in the Committee's camp. Some one has betrayed them. Let the Committee look to this. We shall not advise them what to do, for they are better informed, and will no doubt all act with firmness and discretion. The authorities, however, who were engaged in this unnecessary attempt to produce a collision between the people and the authorities, have dug for themselves a grave so deep that the hand of resurrection cannot reach them.

"In the morning at an early hour an immense assemblage of the people gathered around the jail, under the expectation that a forcible attempt would have been made to break open the jail and seize the prisoners. Had they attempted it and been resisted by the mighty men in buckram who were pacing the roof of the jail, the people would have blown them into fragments sky-high, and made their flesh and bones food for coyotes and crows upon the surrounding hills."

The comments of the *Herald* the same day, though more pertinent, are nevertheless not in exact accord with the minds of the mysterious few which governed all, and round which revolved the passion-seething multitude:

"Much as we have admired the conduct of the Committee on other occasions, we think their course yesterday, under the severe provocation they received, was more praiseworthy than any victory they have yet achieved. They regarded the affair as a very stupid piece of chicanery by which they had been overreached in the discharge of their duty, but they preserved a perfectly calm demeanor, certain that sooner or later justice would take its

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course. While the authorities were hurrying up and down in perfect amazement at their own desperate valor, issuing orders for muskets, cartridges, and cannon, the members of the Committee were quietly pursuing their usual avocations, wholly unmoved except to laughter at these warlike demonstrations.

"And the pygmies swarmed in the streets, and chattered, and chuckled, and held conferences at the street corners about the wonderful victory they had achieved over the Vigilance Committee and the cause of justice, unmindful, these pygmies, that the same popular will which has broken up and scattered to the winds that criminal organization on which corrupt officials fattened, could sweep them and all their machinery of office, courts, and law into the bay at a single effort. As for the vapid and meaningless document called a proclamation, which was posted up about the city, it is wholly unworthy of notice. It has no point whatever."

And thus, the day following:

"These pets of the law, if we understand rightly, are in custody without any legal commitment, and while so detained are an illegal expense to the county. If they are turned loose again on society a stupendous crime will be committed against the peace and lives of our citizens. The full measure of their guilt is perhaps unknown; it is natural to suppose that men under such circumstances will not confess the perpetration of very grave crimes; but their own admissions show that their hands are raised instinctively and by long habit against their fellows; and that to permit them to go again at large would be to be accessary to murder. A lawyer can nevertheless easily convince a court that against these men there is no proof sufficient to convict them, and the question arises, What will the court order? It cannot have them detained, as there is no testimony against them. They will of course deny their guilt and contradict their admissions. These admissions will go for naught, and the grand jury cannot even find a bill against these men. See, then, the position the law has brought itself into in regard to them. It is to be presumed that none will deny their criminality; about that there can be but one opinion; and yet the law virtually declares such men must not be punished. Law cannot punish them, and law will not permit anybody else to punish them. The men who now presume, after permitting two criminals to be executed without venturing to oppose the Committee, to thwart them in their efforts to restore society to its just equilibrium, to restore energy to the palsied arm of justice, to break up the criminal organization which has pervaded this whole country for more than two years, an organization, too, which has dealt in murder and rapine to an extent which has appalled the hearts of our citizens, an organization which has perpetrated fifty-two murders in the precincts of this city within the last eighteen months, we say those who now oppose the Committee in their efforts to break up this organization seem to forget that they themselves exist in their official capacity but by sufferance, and that the labor of crushing them would be very light indeed."

The night before they were to have met their fate permission was given the two prisoners to shave and

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dress in their best clothes. They were to have been executed from the yard-arm of a vessel, in full view of Telegraph Hill, round the base of which so many scoundrels congregated. It may be interesting to some to know the intended proceedings on board the ship.

The chief of police was to detail a guard of true men, well armed, to proceed to the vessel and make preparations for the reception of the prisoners. A clergyman should be allowed on board with the prisoners. The bell should be tolled on shore. When all was ready the water signal should be hoisted and a gun fired. Then the executive should appear upon the shore, and upon the waving of a handkerchief the souls of the condemned should be launched upon the eternal sea, and their bodies should hang for the space of one hour thereafter. But the Committee had forgotten that at the hour named the tide would be low. Furthermore, the risk of failure would have been greater in conducting an execution on board a vessel than on shore; hence that plan would probably have been abandoned.

Four days passed quietly while Whittaker and McKenzie lay undisturbed in jail. Yet no one who thought upon the matter supposed that the Vigilance Committee would allow the affair to rest there. The authorities well knew, or might have known, when they seized the men that they could not hold them. Neither did they care to hold them, or to prevent the Committee from exercising their sovereign purpose. The men deserved to hang. No one questioned it. The Committee, through their ability and energy, had broken up the organization. Let them complete their work; it was better so. Certain base or blundering members, by informing of the intended execution, had obliged the authorities, contrary to their inclination, to make the seizure. It now only remained to the Committee to repair the breach caused by their indiscretion and neglect. The momentary

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victory of the authorities had strengthened the Committee rather than weakened it.

Their ranks were swelled by large additions of the most respectable element of society. Money was freely subscribed for the support of the organization, and fresh impetus given to its vitality. People were satisfied that if the two men Whittaker and McKenzie were tried by the courts they would be acquitted and turned loose upon society. Even in face of the overwhelming evidence against them it would be difficult for a grand jury legally to find a true bill, or for a court legally to punish them. Should law, then, prevent just punishment which it could not itself inflict? The Committee were stimulated by obvious considerations, and showed their decision in the following order:

"CAPT. CARTWRIGHT:

"You are hereby authorized to detail a guard, such as you think proper, and arrest two prisoners, to wit: Sam Whittaker and R. McKenzie, and bring them into custody of the Committee of Vigilance.

"Done by order of Executive Committee, August 22, A.D. 1851.

"JAMES B. HUIE, *Chairman.*

"Attest: S. PAYRAN, *Secretary.*"

Sunday was the time fixed upon for the recapture. It was ascertained that there would be service on that day, and it was customary on such occasions to bring all the prisoners from their cells into the main hall to hear preaching. At that time the doors would be unbarred; there would be no locks to pick, no cells to break open.

On Saturday thirty of the Committee met in an old iron building standing on the corner of California and Leidesdorff street, and agreed among themselves to recover the prisoners or perish in the attempt. The first thing was to ascertain the condition of the jail, by whom it was guarded, and what arms were in the possession of its defenders. As it would not do to visit the jail in a body, lots were drawn to determine

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who should act the spy, enter the jail, and bring back a report. The lot fell upon Bluxome, who immediately set out on his mission. In front of the building he found the sheriff himself, saddling a mule.

"Colonel Hays," began Bluxome, "you have Burdue yet a prisoner. His was a very hard case. Though I have never met him I have had much to do in his case, and I must confess to a curiosity concerning his strange resemblance to Stuart. I would like to see him."

"Certainly; go in," said Hays, giving at the same time the order to admit him.

Bluxome entered and found Burdue sitting on a stone step. Entering into conversation with him, he carefully marked in his mind the place and its contents, and then walked carelessly about the prison. The only arms he could discover was a rack of muskets standing in the middle of the main hall. These might be dangerous, and they might not; but how ascertain if they were loaded without exciting suspicion? Taking a musket from the rack and turning to the officer in attendance, whom he well knew, he exclaimed in a half playful manner:

"Lambert, you are an old infantry soldier; so am I. Put me through the drill."

"What drill?" asked Lambert.

"Loading and firing."

"All right, sir," replied the officer, complying with the request. Presently Bluxome complained:

"This gun is not well balanced," and putting it back he took from the rack another. And so on divers pretences he examined one after another, and ascertained that none of them were loaded. That was all he wished to know, and he returned to report.

Ryckman determined to make a survey on his own account. Going up to the jail, he found ready admittance. The triumphant authorities were most affable. The vigilance organization was a fine appendage to a police office. "We don't want any trouble

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with you," said the smiling jailer as he admitted him.

"There are many who entertain the same sentiment," was the caustic reply.

Ryckman examined the muskets, which were flint-locks, and saw that they were not loaded. He was less diplomatic in his visit than Bluxome had been. He was absolutely fearless, and went more directly for his object than some who were, indeed, no more circumspect than he. The jailer spoke truly. No one coveted trouble with Mr Ryckman.

The visitor asked to be shown the captured prisoners. Whittaker was in his cell, and on seeing who it was he came to the grating and said:

"I hope you are not sorry to see me here, Mr Ryckman?"

"Sir," was the reply, "you were arrested through the agency of the people; you were tried and convicted by the people; you escaped, but you will as surely be executed by the people as you now live. Entertain no hope otherwise. Be ready. No power on earth shall save you."

This utterance can hardly be commended as discreet. Ryckman then returned to the Committee rooms and busied himself in preparing for the intended undertaking for Sunday.

At the rendezvous on Sunday morning only one out of the thirty was absent. The twenty-nine were divided into three parties, one of thirteen and the others of eight, and each placed under a captain. G. W. White commanded the first, and Mr Calhoun and Oscar Smith the other two. The movement was under the immediate orders of J. W. Cartwright.

Over a portion of the prison, at the time, there was no roof, and from a certain point on Telegraph Hill could plainly be seen all that occurred in the main room. One Higgins was stationed at this point with instructions to open wide his arms the moment service was over.

Meanwhile one party had taken its stand at the

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front door of the prison, and of the others, one at the back door, and one in the area between the outer wall and main building, where they could see Higgins. The signal being given, every man made ready. Immediately the front door was opened, and as the worshippers from without were making their exit, the party there stationed crowded in. At this juncture a crash was heard at the back door, which fell with loud noise beneath the blows of a sledge-hammer. In another moment two divisions were together, while the third rushed to the front and acted as guard. The criminals, who under guard had been attending service, instinctively scattered to their cells like rats before their feline enemy. The regular jail guard were at their station on the top of the building, and during the seizure they were covered by a large pistol in the hand of James B. Huie, one of the twenty-nine. Whittaker was taken by Bluxome just as he entered his cell. This was about a quarter past two. At the same instant, by different parties, McKenzie and the officers were seized. There was some scuffling between the officers and the vigilants, and a few harmless shots were fired. Whittaker and McKenzie struggled hard, but were quickly overcome. The two criminals were bound, and hurried to a carriage in waiting. The other inmates of the prison stood trembling with fear, without offering the least resistance, not knowing when their own turn might come.

No sooner were the two prisoners thrust into the carriage which stood in readiness round the corner than the driver plied his whip, and the horses dashed off at the top of their speed, up Broadway to Stockton street, thence to Washington and through Dupont, Sacramento, Montgomery, and California streets, to the Committee rooms on Battery street. Not a moment was lost. Over the doors of the second story of the building projected two beams, fastened to which were blocks roved with ropes noosed at one end. With their coats removed and arms pinioned to their

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sides, the ropes were adjusted round their necks. The next instant the two prisoners were simultaneously jerked from their feet and hoisted in air until their heads touched the beams above; then they were lowered and again hoisted until life was extinct.

Nothing of the plan was known to any except the executive committee and those actually engaged in it. Even the preliminary arrangements, as we have seen, were made outside of the Committee rooms. Less than three quarters of an hour was occupied from the time of the attack upon the jail till the unfortunate men were swinging from the beams of the Vigilance Committee building. Following is the return of order of arrest.

"EXECUTIVE COMMITTEE OF VIGILANCE COMMITTEE,
"SAN FRANCISCO, August 24, 1851.

"Agreeable to your orders above, I detailed thirty (30) men, who proceeded in three divisions, under the respective orders of Col. G. W. White, Capt. Calhoun, and Mr Oscar Smith, and in the short space of five minutes from the first charge the prisoners above named were on their way to your head-quarters. "Respectfully,

"J. W. CARTWRIGHT."

While the vehicle containing the prisoners and their guard was dashing through the streets the Monumental bell struck the well known signal, but before many members in answer to its summons could reach the Committee rooms the deed was done. The executive committee were becoming proficient in the business; all had been preconcerted, all was carried out without faltering and without confusion. The execution over, the people were addressed by two members, and the action of the Committee received their unqualified approval. At sunset the bodies were delivered to the coroner, who held an inquest at the house of the California Engine Company.

The extraordinary incidents of the day, and of the occasion, were never paralleled in any country. Glance once more at them: A law-loving but crime-ridden people rise and do what the law fails to accomplish,

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namely, seize and strangle villainy, and break up a nest of crime. Their work not quite finished, inept law, following its jealous necessity, snatches two of their caught criminals, in order to punish them in its own way. The people recover and execute them. Where else in history shall we find this play of battledoor and shuttlecock between law, justice, and the people?

From their quiet devotions under the auspices of law to that eternity of which they prayed, these murderers found their swift and natural way. There were many incidents worthy of mention in this connection, but I can give place to but two or three.

When the prisoners were bound, with their hands behind and the ropes round their necks, and all was ready for the execution, Whittaker said:

"I want to see Mr Ryckman."

"What is it, Whittaker?" said Ryckman, stepping up to him.

"You have never deceived me, and I will tell you something. You are a doomed man. You will be assassinated in less than ninety days. Reckless and determined men have sworn it."

"I am not afraid of them," said Ryckman. "All the desperadoes this side of purgatory can never intimidate me in the discharge of my duty."

While the execution was taking place the mayor, Brenham, was noticed sitting quietly on a pile of lumber on the opposite side of the street from the Committee rooms, regarding the proceedings apparently as an idle spectator.

After the men had been hanging about fifteen minutes Gallagher presented himself, blustering for the bodies.

"What do you want?" asked Ryckman, stepping forward.

"I am coroner of the city of San Francisco, and I want these men!"

"You can't have them."

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"If you don't give them to me I will cut them down!"

"Raise your hand to touch those bodies and you are a dead man. Come, be quiet and take a drink—that or the contents of this pistol, as you like."

The Irishman calmed himself and 'smiled.'

"When can I have them?" he asked, now wholly resigned.

"When the sun goes down," said Ryckman.

The day after the execution Hays, the sheriff, meeting Ryckman, said:

"I am mortified to death. All my hopes of reëlection are destroyed."

"Colonel, don't be foolish," Ryckman replied. "Seek the election. You have acquitted yourself fully. Failure sometimes is more successful than success."

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CHAPTER XXIV.

MINOR RASCALITIES.

They demen gladly to the badder end.
Chaucer.

The revelations of Stuart gave many cause for uneasiness. In the published confession some of the names given by him were omitted and blanks inserted, and many an undetected rascal in reading that report saw in fancy the letters of his own name flaming blood-red in blank spaces. Knowing, moreover, that for every blank the Committee had the true and fitting appellation, some who before regarded themselves as fixed and settled members of the commonwealth suddenly arrived at the conclusion that their health required a change of air.

More than any other one person T. Belcher Kay sat uneasily as he read that confession. He is said to have been the instigator of the great fire of the 22d of June. His assistants in that affair were Jimmy-from-Town, Dutchy Betts, Adams, and Whittaker. Kay promised to have the plunder properly divided; they secured some eight thousand dollars in all, including three cases of valuables sent to a Sacramento Jew, who did business on the corner of J and Second streets. Kay was disgusted with the present turn of affairs. Things were coming to a pretty pass when, in addition to the trouble caused him by the people, every other man of them had turned thief-hunter; when a comrade would not suffer himself to be hanged in quiet, but must first tell all he knew and jeopardize the lives of his former companions. Whoever heard

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of such a state of things, when one could not fire a few buildings without causing such a commotion! It was not fair. Why could not merchants and mechanics mind their own business? What did they know about law? Incendiarism, robbery, and murder were matters resting entirely between gentlemen of the profession and the courts, between which classes lay the net-work of the law, both manipulating it as best they might according to their respective interests. Now, for the men of merchandise to interfere and raise such a hubbub was infamous. The country was becoming unfit for a respectable scoundrel to live in. Everything seemed turning against him. The people were patrolling and associates confessing. There were yet the courts, however. After all, the law had treated him well enough, and legal technicalities were about the safest covert for hunted rascality; there money was money. He was friendless now; there his stolen gold dust would buy him a friend into whose safe ear he could pour his secrets, tell all his guilt, and secure him able and active sympathy; for so kind law provided. Money would likewise buy him witnesses who would swear to anything his legal accomplice might indicate. Money made warm the cold cell, soft the hard couch, drove hunger and thirst to hide themselves; it opened prison doors, and made even judges benignant. Law was the only safe refuge for the rascal; to the law he would go, and that while he was able.

At the time of Stuart's arrest Mr Belcher Kay was in San Francisco, but urgent calls of conscience took him to Sacramento. The outlook there was not comforting. Everywhere he found too many people earnestly intent on not minding their own business. A Sacramento July was hot and withering, a San Francisco July was cold and shivering; indeed, the climate of California he believed to be changing. The fact is, Mr Belcher Kay was unhappy. The vigilance men were after him, and he knew it. There were among them those whom the June fire, a most un-

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fortunate kindling at this juncture, had for the third or fourth time stripped of every dollar; and he knew that, too.

No time was to be lost. To flee the country was impossible; every avenue of escape was closely watched. There was but one refuge left, and that had never failed him—his benign mother, the desperado's *alma mater*, the law.

Assuming the costume of an elderly female, he dodged a detachment of the San Francisco Committee sent up to arrest him, cut across the country to Stockton, thence to San José, and up to San Francisco. Here, on the 16th day of July, he drove to court in a buggy, still disguised as an old woman, that he might swear out a writ of *habeas corpus* for his own body before some one else should snatch it from him.

Mr T. Belcher Kay did not, however, arrive at court a stranger. Before leaving San Francisco he had taken steps to legally secure himself to himself. On the 11th of July, the day of Stuart's execution, one William Thompson Jr. appeared before Hugh C. Murray, of inglorious fame, then chief justice of the superior court of San Francisco, and swore, to the best of his knowledge and belief, that T. Belcher Kay was unlawfully restrained of his liberty and imprisoned by a great number of persons styling themselves the Vigilance Committee, and that the said persons were endeavoring to conceal the said T. Belcher Kay in order that he might not be reached by legal process until they could strangle him; whereupon the said court, bewailing such a fate for a free city-burner, directed Sheriff Hays to seize the body of the said Kay whenever and wherever it might be found, and to hold it safely for himself and for the law. Now the truth of the matter is that the Vigilance Committee had never had the body of Mr Kay in their possession, else the affidavit of Mr Thompson would have been useless.

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From Sacramento the 13th of July Mr Kay wrote the San Francisco Vigilance Committee as follows:

"Being informed that certain grave charges have been preferred against me by the man Stuart, and that you wish to try me on said charges, I now state to you that I am ready and willing to meet the same, and will voluntarily deliver myself up the moment you may send for me, trusting to your honor for a fair and impartial trial, and beg of you to secure for me as counsel Geary Austin, Esq. "Very respectfully,

"T. B. KAY."

How Mr Kay kept this promise we have already seen.

Commenting on the action of the court in Kay's case, the *Herald* of July 24th says:

"When a writ of *habeas corpus* was sued out in the case of William Walker, an honest citizen, whose sole crime was a conscientious discharge of his duty, the applicant was knocked about from court to court like a shuttlecock, and seven days elapsed before he was restored to his liberty, while here in the case of a man charged with felony, known to have been the companion of thieves and burglars, and suspected of being their confederate, the portals of justice open wide to receive him even before he knocks for admission, and a process issues to restore him to liberty before he is known to be in durance. All according to law, perhaps; but if it be so, then that law acts directly for the oppression of the honest man and the immunity of the knave. We cannot believe the law was ever intended for any such purpose. We repeat, then, that here is a case demonstrating the necessity of a Vigilance Committee and disproving all the cant indulged in about the sacredness of the courts. These institutions are formed for the purpose of dispensing justice, and if they do not answer that purpose they are worse than useless."

Mr Thompson was indicted by the grand jury for perjury. Mr Belcher Kay was discharged by the court on the 1st of August, and immediately took passage for the east.

Other minor matters claim attention. One Francisco Guerrero, on the 12th of July, was murdered at the Mission. The coroner's jury, whose investigation was made in the presence of the Vigilance Committee, named Francis Le Bras as the murderer. The Committee, from the evidence, were not fully satisfied that Le Bras was guilty of the crime; nevertheless they retained him in their custody.

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The Committee continued to take testimony for and against the prisoner all that day and part of the next, without being able to convict. Meanwhile the sheriff, with a *posse comitatus* and writ of arrest, knocked at the door of the Vigilance Committee rooms and demanded the person of Francis Le Bras. The sheriff was politely informed that after the Committee had acted upon the case they would determine what disposition to make of the prisoner. At the same time the sub-committee, to whom the case had been referred, recommended that no notice should be taken of the writ, and if it be thought advisable to submit the case for trial at court by the authorities, to do so of their own free will, and meanwhile to keep in custody the prisoner. The executive committee concluded finally to surrender the prisoner to the civil authorities, taking from the sheriff a receipt for the delivery of his person. Upon this action the *Herald* observes:

"The Committee's course in this matter sufficiently refutes the charges that have been made against them that they were anxious to assume supreme powers and seize every opportunity of exercising judicial functions. As the community will perceive, they have heretofore confined their action exclusively to cases where the guilt of the offenders was established beyond the possibility of cavil or doubt; and so strictly have they adhered to this course that, whatever other charges have been urged against them by their opponents, none have been so reckless as to assert that they have ever punished an innocent man."

Herewith I give copies of receipts for prisoners delivered by the Vigilance Committee of their own free and deliberate will to the officers of the law.

"SAN FRANCISCO, July 23, 1851.

"Received of the Committee of Vigilance of the city of San Francisco the following prisoners, handed over to the sheriff of said county by order of said Committee: James Burns, *alias* Jimmy-from-Town; Ainsworth, *alias* Roundhead.

"The above prisoners being sound in body and health.

"Received the above prisoners from J. L. Van Bokkelen, of the Vigilance Committee, Wednesday night, July 23d.

"JOHN C. HAYS, *Sheriff.*
"WM. LAMBERT, *Keeper.*

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"Received of the Committee of Vigilance a prisoner named George Arthur, accused of house-breaking.

"The above prisoner has been received from J. L. Van Bokkelen, of Committee, Wednesday night, July 23, 1851.

"SAM'L C. HARDING,
"*Captain Third District Police Station.*"

Jimmy-from-Town gave the Committee quite a little chase, but was arrested, six days after Stuart's execution, near Marysville. His true name was James Burns. He was convicted of various crimes, and sentenced to ten years' imprisonment. Jimmy Roundhead was likewise caught by the Vigilance Committee and presented to the sheriff.

Again the tolling of the Monumental's bell announced the sitting of the Committee in solemn conclave. At ten o'clock in the morning of the 6th of August, 1851, hundreds were seen rushing through the streets toward the rooms of the Committee on Battery street.

"What's up?" asked everybody of everybody.

"Don't know, unless Adams is to be tucked up." Adams, a noted burglar and boon companion of Stuart, was found in a tent on the American River. He was arrested by the emissaries of the Vigilance Committee and brought to the San Francisco head-quarters the 19th of July. But Adams was not to be 'tucked up.' The Committee were about to perform an act which should mark the nobleness of their motives, the coolness of their demeanor, and the temperate firmness of their character, more conspicuously than even the hanging of Jenkins and Stuart. One of the fearful ills which should be fastened on society by this unruly organization, predicted by the lovers of the courts and court officials, was an ever increasing thirst for power, which should rise to intoxication and degenerate into licentiousness. Again we see the Committee, who had spent their own time and money in the capture of a notorious criminal, and in gathering the evidence

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of his guilt, voluntarily surrender him to the constituted authorities, to be tried and sentenced in accordance with recognized forms of law.

"There they come!" shouted one, as Adams appeared at the entrance between the chief of the vigilant police and a deputy sheriff. They marched toward the county jail, followed by several members of the Committee and a crowd of citizens. The spirit of justice smiled on her ministers that day, and the court was not slow in recognition. The lesson of alacrity had been well inculcated; scarcely was Adams lodged in prison before the judge had him out, tried, and condemned. Even the anti-vigilance organs were satisfied to have the Committee act as a detective police, and signified their willingness that the organization should continue on that basis—suggestions in regard to which the Committee were profoundly indifferent.

Mrs Hogan secreted herself on board of a ship lying in the harbor, but was seized by the Vigilance police and brought to the Committee rooms on the 19th. She was about thirty-five years of age and quite genteel in appearance. Her carriage, one of the finest in the city, stood at the door of the Vigilance Committee rooms on the day of her arrest, but at night the lady did not drive away in it, although there was not at present testimony sufficient for her conviction.

Thieves arrested by citizens at the great June fire were taken, as a matter of course, before the Vigilance Committee. One was publicly whipped and ordered to leave the city. Five thousand dollars reward was offered for the apprehension and conviction before the Committee of any incendiary, and notice to that effect appeared in English, French, Spanish, and German, in the journals of the day.

Dab was arrested one night on board the steamboat *New World, en route* from Sacramento to San Francisco. Dr Kennedy, surgeon of the ship *Johnstone,*

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was arrested for stabbing the captain—a system of surgery practised even by some who could not show a diploma.

Samuel Purdy, while candidate for the office of lieutenant-governor, assaulted Mr Robb of the Stockton *Journal* in such a manner as to call forth the severest comments of the press.

The captain of the brig *Hallowell* was taken into custody by the Vigilance Committee on Sunday, the 24th of August, for having caused the death of a boatman, but after examination he was surrendered to the authorities.

Early in July a tent on the Middle Fork of the American River was entered and twenty-three hundred dollars stolen from a trunk. Suspicion pointed to one Hamilton Taft, who, having fled to San Francisco, was arrested at the Branch Hotel by two members of the Vigilance Committee. The prisoner asserted his innocence, but on being searched gold dust and coin were found upon his person, and a portion which he had thrown into a sink answered to a description of that which was lost. The man was then taken to the Committee rooms, where shortly after he confessed the crime. He was sent back, under a strong guard, to be dealt with by the authorities at Auburn.

Arrentrue was indicted by the grand jury for attempt to murder in the mines, and for assisting Watkins to escape jail. Benjamin Lewis, found guilty of arson by the court, was sentenced to two years in the state prison. This was the highest punishment for the offence as the law then stood. Two days after, however, a new statute went into effect which made arson punishable by death. Lewis went happily to prison, rejoicing in the promptitude of trials in California.

Briggs, the 'Sydney duck,' mentioned in Stuart's confession, was reported as being in San Francisco on the 15th of October. All night members of the Committee were on the alert, but the morning dis-

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closed the fact that he had left the day previous on the brig *General Cobb*, or the British bark *Francis*, bound for Australia. A committee was appointed to wait upon the collector of the port and obtain the requisite authority to search the two vessels. They pursued the fugitive, pushing out through Golden Gate in the steamer *Firefly*. Boarding the *Cobb*, they ascertained that Briggs was not there. The brig *Francis* was a long way off; the steamer fuel was low, and they were obliged to abandon the chase.

John Goff was informed by the Committee that he must leave the country, and many thought it an unjust sentence; whereupon the Committee caused to appear in the public journals the facts that Goff was a convict, a bad character, and the boon companion of burglars. In his possession was found a conditional pardon, given in Sydney the 1st of May, 1849, by Sir Charles Augustus Fitzroy, governor of New South Wales—the condition being that Mr Goff might go free in any part of the world except Great Britain and Ireland; there his pardon would be forfeited if he presented himself. Mr Goff was obliged to deposit with the Committee a sum of money as a guarantee that he would quit the country by the brig *Veto*, bound for Sydney.

Mr Hetherington, destined to yet higher inglorious fame, was at this time keeping a notorious den at North Beach; being warned to leave, instead of obeying, he applied to the courts for protection. The days of grace expired; two hundred men surrounded his premises, arrested him, and placed him on board a vessel in the harbor, there to await the first departure for Sydney. We shall meet this gentleman again.

A young man named Harrison, son of an honest and highly respected gambler, John Harrison, one of the oldest in New York city, who was ordered by the Committee to depart from these shores, had quite a strange career subsequently. From Julia

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Brown, his prostitute mother, he inherited some property. After favoring California with his absence he went to Kansas. Walking along the streets of Leavenworth one day, he boastfully counted on his fingers to a companion eleven men whom he had killed. Suddenly he drew his pistol, exclaiming, "I must have twelve jurymen in hell to try me when I go there!" and fired, shooting a German cobbler at work on the opposite side of the street. He made good his escape. Next we hear of him at the head of twenty-five desperadoes, playing soldier in 1861. Driven from the army for bad conduct, he fled to the Indian Territory, raised a company of half-breeds, and began a series of depredations on both sides of the line. These bold measures were kept up till one day, in a town in Arkansas which he had robbed, he was captured by the citizens, who killed him very dead: first they hanged him; then they decapitated him and placed his head upon a pole.

In the matter of Samuel Gallagher, accused of killing Pollock, the Vigilance Committee declined to act, on the ground that it was not part of their purpose to take cognizance of personal quarrels, but rather to direct their surgery against chronic diseases. Rapine, with its attendant burglaries, incendiarisms, and murders, the Committee made it their more special duty to suppress, leaving to the law private animosities and minor questions of justice.

Strange freaks of human nature were seen at times about this strange tribunal. A negro confessed to having started the late conflagration, and was arrested by the Vigilance Committee. After examination, in which were repeated confessions and denials, he was discharged. At another time a man rushed to the door of the Committee rooms and attempted to gain admission. Stopped by the sergeant-at-arms, he insisted on entering to receive punishment for stealing. He was finally driven away. And yet neither of these

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men seemed insane, though they may have been a little bewildered by a bad conscience.

More fearful of vigilant justice than that of the law, some offenders surrendered to the latter and voluntarily confessed secret sins,—instance the case of Alfred Edmondson, who walked into the sheriff's office one day in July and stated that he had shot one McKinley at a ranch thirty miles distant.

A reform was noticed about this time in the proceedings of street encounters. The revolver's click was less often heard, and in its stead the air reverberated with the whizzing of the cowhide. Women played this instrument as well as men; it was less sanguinary than the old way, and more in keeping with the hate of woman, who loves best that method which inflicts the most punishment with the least danger.

On one occasion when Selim Woodward was in the chair and the members in full attendance, the general committee had before them on trial a Mexican boy charged with theft. The evidence was in, conviction clear, and the only remaining question was the kind of punishment. Some were for banishment, some for whipping, and others for something more severe. Mr James Dowes, then as ever a central figure for humor, had already addressed the assembly twice, and wished to speak again, but the rule was rigid that no one should speak more than twice on the same subject or occupy more than five minutes. Dowes induced a friend to secure the floor and then waive in his behalf, and raising his long, lank form high above all around, in that nasal twang and ejaculatory delivery peculiar to him, he said: "Gentlemen, I do not wish to fatigue you; I beg merely to say that it takes no longer to hang a man than to whip one." The manner of it was more than the matter; the Committee roared, and immediately released the boy with a simple reprimand.

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Mr Dows, who was a fearless and vehemently uncompromising member of both Vigilance Committees, during the winter of 1850–1 kept a large liquor store on Montgomery street, where Montgomery Block now stands. Those were thirsty days, and thither flocked men of every caste and color to drink. Side by side drank mechanics and murderers, honest men and thieves, the latter looking and listening as they quaffed their poison. One night, when Mr Dows' safe contained ten thousand dollars' worth of gold dust, the burglars opened and emptied it; and next morning, upon the spot, mingling with others whom curiosity had drawn thither, were the thieves themselves, quietly taking their beverage and complacently regarding the havoc they had made. Jimmy-from-Town was chief of this plot, and subsequently Mr Dows had the pleasure of sitting in judgment upon him.

As a matter of course, it was to be expected that our celestial brother, John, should find occasion to utilize this as well as other American institutions. Ah Sing and Lip Scom for some reason desired that Ah Lo and Ah Hone, with two women of the neither wife nor maid species, should be sent back to China. They were bad Chinamen, said the almond-eyed, they struck from the shoulder, kept a bad house, and belonged to the law and order party. All which was not difficult of belief; but amongst millions of century-smoked souls how distinguish one from the other? What is the difference between a good Chinaman and a bad Chinaman?

Nevertheless, as the first two named spoke first their accusation—which if reversed would have been very much the same, either party answering equally well for plaintiff or defendant—as they expressed an anxiety to assist in purging the city in the latest fashion, and by a method other than that of the standing Jackson-street emetic; and above all, as they proposed to pay all the expenses of custody and

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passage back to China, the dread tribunal granted their prayer. Indeed, they might empty every suburban sink-hole in California on the same terms if they liked.

But seriously, testimony of a sufficiently respectable character to convict these flowery offenders of arson, of having drugged and robbed sailors, was offered the Committee, and they were compelled to depart. At the same time charges were preferred by their countrymen against Ah Loh, Sin Co, and Ah Oeh; but this the Committee voted a conspiracy, and made the complainants understand that the order of exile in its application was neither universal nor permanent.

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CHAPTER XXV.

THE INQUISITORS IN COUNCIL.

Though the mills of God grind slowly, yet they grind exceeding small;
Though with patience he stands waiting, with exactness grinds he all.
Friedrich Von Logau.

We have seen that July was a busy month, and the accumulated documents show that the month of August was not an idle one. Aside from the stirring affairs connected with Whittaker and McKenzie there were a score or more of the minor members of the now scattered fraternity to be looked after, correspondence with country Committees had to be kept up, the significance of legal technicalities studied, trials held, witnesses examined, funds raised, and a hundred other like duties performed. It is wonderful to what a state of perfection the new machinery was brought within the first three months of its running. Wonderful it is what men of sense and skill can do when possessed of that power which secures them absolute freedom of thought and action. That political libertinism did not follow this deluge of liberty is the strongest proof of the even balance of their minds and the integrity of the hearts of those who achieved this great moral victory.

At a general meeting on the 2d of August a committee was appointed to report on the use and abuse of the writ of *habeas corpus*. Devised in the hour of oppression, observed the committee, as a safeguard of liberty it is one of the most precious rights of man. The intention of the writ is to relieve from unjust confinement a person accused but not

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convicted of crime, on condition that he offer sufficient security to appear and answer to the charge when called for. The question in this connection is, May it ever be disregarded? The weakness of the *habeas corpus* lies in the fact that to insure its rapid action the right of granting it must be vested in many officers. False testimony or an oath made on erroneous information may in an instant wrest from the hand of justice the criminal whom it has required much labor and expense to secure, and thus this greatest of civil blessings may in effect prove baneful. It is against the abuse of the *habeas corpus* that the people are called to raise their voice. A peculiar condition of society may render the unrestrained use of the writ dangerous to the state. Policy sometimes requires its suspension—instance the wars of the Jacobins, England during the reign of George I. and at various epochs. Should the Vigilance Committee deem it expedient to resist the writ upon occasions, it has the sanction of precedent. The existence of this Committee, formed as it is of the best material of society, is proof sufficient of its necessity. The writ of *habeas corpus*, among other mechanisms of the law, has certainly been employed for shielding iniquity, and it remains either for the Committee of Vigilance to degenerate into a mere detective police, or to free itself from the fear of resisting the writ when they see it abused. They cannot afford to catch criminals for *habeas corpus*, or any other law trick, to liberate. Such, and more of the same tenor, the gentlemen appointed reported to the Committee; accounting it the right of the Committee to regulate the writ of *habeas corpus*, or anything else affecting the welfare of the commonwealth.

Prompted by their gratitude to those who had restored safety to the city, the ladies of San Francisco presented to the Committee of Vigilance a banner of blue silk, emblazoned with a border of oak, olive, and

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fig leaves, emblematic of strength, peace, and plenty; inscribed on one side were the words, in golden characters:

"The Vigilance Committee of the City of San Francisco:
Instituted June 8, 1851,
For the Protection of the Lives and Property
of the Citizens and Residents of the
City of San Francisco.
Const., Art. I."

And on the reverse:

"Presented to the Vigilance Committee
of the City of San Francisco
By the Ladies of Trinity Parish, as a
Testimonial of their Approbation.

'DO RIGHT AND FEAR NOT!'

August 9, 1851."

Estimating the compliment by its cost, which was nearly one thousand dollars, we may believe that the gift was from the heart. The banner was presented by Benjamin S. Brooks, in a neat and pertinent speech, which concluded as follows:

"This gift comes with peculiar appropriateness from the ladies. At the time that this society was organized our situation was very different from what it is at present. It is true that the strong man, with loaded revolvers in his pocket and bowie-knife concealed in his breast, might defy the attacks of the Sydney convict, and the refuse of all the world which infested our city, but it was different with the weak and defenceless woman. She who sits patiently at home waiting for her husband's return from his business, in every noise about the house she fears the burglar and the robber. If she leaves the house, a thousand fears beset her for the safety of her children; if the husband is delayed beyond his usual time, a thousand fears, a thousand horrid visions of murder, and outrage, and violence come upon her heart, and fill her with anguish and dismay. Such was San Francisco; but now we live in peace. We sit beneath our vine and fig tree happy and secure, and woman's heart feels, and this her gift expresses, her gratitude. Gentlemen, accept this gift, and all your actions, in all the assaults which may be made upon you by those who hate, or those who fear, or those who doubt, remember the motto which it bears, 'Do right and fear not,' for in the end blessings will ever reward you for your laborious vigilance for the protection of our lives and property."

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Committeeman No. 404, at the general meeting of August 9th, offered the following resolution, which was adopted:

"WHEREAS, There is a United States law inflicting a fine of one thousand dollars upon captains of vessels for each convict that they bring from the penal colonies of Great Britain to the United States, one half of which fine is awarded the informer; therefore,

"*Resolved*, That the executive committee be directed to lodge information forthwith against the captains now in port who have been guilty of this offence, and to prosecute the matter, and that the proceeds be appropriated to the objects of this Committee."

A letter was received from Messrs Flint, Peabody, and Company, inclosing one hundred dollars. The gift was accompanied by a letter couched in the following terms:

"Please find herewith check for one hundred dollars, which we ask you to accept as a small token of our appreciation of your efforts to punish and suppress crime in our midst. We have sympathized with you since your first organization. We appreciate your labors in behalf of this city; and knowing that you have been at much expense, we deem it our duty to bear some share of the same. We trust that in the present crisis your action will be characterized by your usual prudence and firmness, and that you will not entertain a thought of discontinuing your efforts in so noble a cause."

During the month of September there was a slight falling off in the volume of business transacted; still there was sufficient work to keep up the enthusiasm of the association. Many offenders were captured and delivered to the sheriff. Between the Committee and the authorities general good-fellowship now prevailed.

The latter had vindicated the ruffled dignity of the law in their futile attempts to baffle the will of the people; while the former, having achieved in the accomplishment of its purposes a proud success, with calm complacency held steady the reins of government, bidding the law take heart and have no fear as to the ultimate result.

The following report of the executive committee to

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the general committee exhibits the status and sentiment of the association at this time:

"EXECUTIVE CHAMBER, September 6, 1851.

"*To the gentlemen composing the Committee of Vigilance of San Francisco:*

"The executive committee of your body have labored arduously to accomplish the business committed to them, in the discharge of which they have had but a single eye to the safety and prosperity of their fellows. It is with much sincere satisfaction that they are enabled to say that the reports before you embrace action in relation to every prisoner in their charge, and it now only remains for your sub-committee to see the prisoners depart and not keep them in duress.

"We also have heartfelt pleasure in communicating the fact that many of the prisoners not only are enabled to pay their own passages, but are willing to depart in perfect satisfaction with the acts of the Committee; your committee have rendered them every facility that humanity and prudence could dictate.

"Amongst the cases before us were two of husband and wife; those two cases demanded our attention; your committee have separated the parties for their own good, and by the separation may be the means of saving much anguish. Our labors are now completed, and so far peace and security have attended our efforts for the public good; we earnestly hope that the blessing of Almighty God may rest upon us; may the cessation of our labors be no cause on the part of the vicious to renew their course of life to the injury of the people. We trust that those in power at this time, and those who shall succeed them by reason of the late election, may so learn wisdom that in the exercise of their representative duties they may ease the weight from the shoulders of their constituents, and thereby honor their common country and preserve their institutions unsullied. It will now become you to adopt some action for the future, to so base the present institution that it may silently be a terror to all evil-doers and a rewarder of all that do well; that it may be the guardian spirit of the land. With feeling of high respect and esteem,

"Believe me, your obedient servant and well-wisher,

"S. PAYRAN."

Eighteen members were present at the meeting of September 27th, and thirteen the 30th of September. Nine members constituted a quorum from this date. At the former of these meetings Selim E. Woodworth was elected first vice-president and G. W. Ryckman second vice-president. At the latter meeting Mr Ryckman stated that there was then a Mexican in the city who had committed seven murders, one of them within a week, and moved that he should be arrested. After due discussion it was decided that under their

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late reorganization the executive committee were not authorized to make arrests. It had been the hope of the Committee that they would be called upon to make no more arrests, but this was not to be. In any event the sentiment was worthy of them, showing as it did their honesty, good sense, and manliness. They had no desire to clog the wheels of government or throw obstacles in the way of due administration of law. Though possessed of ample power they would use it only upon principle; they would not even permit themselves to stand before their fellows and before the world a palpable and permanently organized oligarchy. Amidst the many broils and civil wars which history loves to paint, almost all of which are purely for personal or party aggrandizement, it is refreshing to see able and honest men acting from motives of unquestioned purity.

Subsequently, modified power to make arrests was again given the executive committee by the general committee, but no important action should be taken unless formally sanctioned by the general committee.

New by-laws were submitted and approved the 27th of September, organizing the body anew with a president, two vice-presidents, a secretary, treasurer, and sergeant-at-arms, all of whom should be elected for a term of six months. Stated meetings were to be held every Wednesday. On the 2d of October a salary of one hundred and fifty dollars a month was voted the sergeant-at-arms, whose duties consisted in keeping the rooms and property of the Committee, serving notices, and exercising supervision over the prisoners, should there be any. The following meeting, held the 8th of October, voted the secretary a salary of one hundred dollars a month.

These by-laws read as follows:

"There shall be elected monthly a president, secretary, and treasurer of the Committee of Vigilance. There shall be appointed by the Committee of Vigilance a sergeant-at-arms, a marshal, or chief of police, and five assistant marshals; also an executive committee of twenty members, the president of

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the Vigilance Committee acting as *ex officio* president of the executive committee. The remainder of the Committee of Vigilance shall be divided into squads or companies of twenty men each; each squad shall elect its own captain. The object of this subdivision is to make members better acquainted one with the other, and each captain with the whole of his particular company. At the present time there will consequently be about thirty captains. The companies shall be numbered from one to thirty. It will be the duty of each captain to see that the men under him attend properly to guard and other duties assigned them. That they pay their fines and dues when delinquent; and he shall report them for bad or suspicious conduct, as well as for neglect of duty, when necessary. Two squads or companies will furnish the exact number of men requisite for the guard during the twenty-four hours; and they shall be ordered to do duty by the sergeant-at-arms through their captains in regular rotation—companies one and two one day, three and four the next, and so on. From the companies not on duty the chief of police or his assistants may at all times select such men as he may require for police duty, giving his orders to such men always through the captains of the respective companies; as, for example: 'Captain of No. 30, I require from your company by twelve o'clock three men, who shall proceed'—and so forth. After the chief of police or any of his assistants shall have taken or received any prisoners, he or they shall turn them over to the sergeant-at-arms, provided he consider that the quarters under charge of said sergeant are sufficiently secure to keep them safely; but should he, the chief, think proper for the better keeping of said prisoners to remove them to other quarters than those in the building used by the Committee of Vigilance, he may have the power to do so. It is to be perfectly understood that until they are so turned over by the chief or his assistants he, the said chief, be responsible for them; but after being placed in the hands of the sergeant, then he, the sergeant, shall become responsible for the said prisoners, and the chief and his assistants shall have no longer any authority to act in the disposition of said prisoners, unless notified to do so by an order from the executive committee. Should it happen, however, that during the absence of a quorum of said executive committee the sergeant-at-arms might think it necessary to send prisoners forth from the building to more secure quarters, then he may have the power to place such prisoners at such time in the hands of the chief or his assistants, directing them to carry said prisoners to such quarters as he, the chief, may think safe; and thereupon the authority and power of said sergeant-at-arms over said prisoner or prisoners shall cease, and the chief or his assistants shall become responsible for said prisoners so removed. It shall be the duty of the sergeant-at-arms to take all care and charge of the prisoners in the building occupied by the Vigilance Committee; to take proper means to prevent the admission of any but members, witnesses, or prisoners into said building; also to see that the said building is properly cleaned and lighted, and to do such other duty in the way of sending notices and advertisements as may be ordered by the executive committee or by note of the Committee of Vigilance. He shall, moreover, have the power, whenever in his judgment necessary, to prevent all communication between members of the Committee of Vigilance and such prisoners as are in his charge, excepting the members

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of the executive committee, whose orders at all times, when emanating from the chairman of said committee, he shall obey, but not otherwise unless signed by a quorum consisting of five of said executive committee. It is of course understood that any order issuing from the Committee of Vigilance by vote of said Committee shall be obeyed by the sergeant. The duty of the chief of police and assistants shall be to detail all *posses* for the purposes of arresting prisoners or guarding them when out of the building. They shall have the power of making such detail at any time when so ordered by the executive committee or by general vote of the Committee of Vigilance; and all orders given by said chief and assistants are to be implicitly obeyed by the *posses* so detailed. If at any time, while the executive committee or a quorum of said committee are absent, it should be considered necessary for the safety of prisoners, or for the purpose of carrying out any plan for the arrest of prisoners, to detain all members in the room until said safety is insured or said prisoners arrested, then the said chief or his assistants, and also the sergeant-at-arms, shall have the power to close the doors so as to prevent the egress of any member of the Committee of Vigilance.

"At any time that any prisoner is brought in during the absence of a quorum of the executive committee, it shall be the duty of the sergeant-at-arms to notify a quorum of said committee of said fact, so that they may immediately go into an examination of the charges against said prisoner. All orders issuing from the executive committee, whether to the sergeant or to the chief of police, or to other guards, shall be returned endorsed with the report of the parties to whom said order or orders were issued. The sergeant-at-arms and chief of police are to receive their orders from the executive committee, or by vote of the general committee, and are to be particularly under the surveillance of said executive committee. During the absence of the marshal and his assistants their authority with respect to detailing guards for any immediate duty or the execution of any order from the executive committee shall devolve upon the sergeant-at-arms. The chief of police shall be allowed ingress and communication with the prisoners."

A committee of five was appointed by the executive committee at their meeting of October 22d to act as a judiciary committee, whose duty it was made "to inquire into the acts of the various judges on our benches."

Jesse Seligman claims thirty dollars for a six-inch Colt's revolver, and Wm. C. Graham twenty dollars for a five-inch revolver, the first lost in the arrest of John Kelly at the Mission, and the other wrenched from the owner's hand during the Whittaker and McKenzie *melee*. The claims were allowed and paid.

On the 24th of September the executive committee in secret session appointed a committee of four to wait

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upon the French consul and the collector of the port, and from them obtain information concerning a French ship said to be on her way hither with five hundred desperadoes.

The collector, T. Butler King, expressed his entire approval of the doings of the Committee, and promised his hearty coöperation. M. Dillon, the French consul, was likewise gracious, but he was sure the report must be false. He said:

"The government of France would not sanction the shipment hither of any of its convicted felons. Such a course has ever been foreign to its purpose. Under the existing constitution of the republic the government could not take such action without special legislation, of which there has been none."

The consul stated further that on quitting France the name and occupation of every emigrant was registered. He called attention to the general good character of the French population in California.

The committee then waited upon Messrs Marziou et Compagnie, agents for the French emigrant vessels, which were to bring hither five thousand Frenchmen during this year. These gentlemen assured the committee that the passengers by their vessels would be a valuable acquisition to the country, being composed mostly of mechanics, agriculturists, and honest laborers. They promised further to instruct their agents in France to examine emigrants and permit none of bad character to take passage on their ships.

All this looked very fair upon the surface, but it hardly tallied with the evidence of John L. Hodge, United States consul at Marseilles, who writes, April 28, 1851:

"In regard to passengers, a great many are of the very worst class of desperadoes in Europe. I have reason to believe some are sent at the expense of the government. I should recommend your city authorities to impose a heavy tax on all passengers from Europe, and to suffer none to land who have not regular passports from their respective governments, with the *visé* of the United States consul; it may be given gratis. If you permit all to land coming from Europe, your country will be filled by a worse than Italian banditti."

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A special meeting of the executive committee was called the 11th of November in consequence of the stabbing of one McLean by Antonio Gonzalez in the Mississippi House on Long Wharf. Gonzalez had been arrested by the Committee, but as it was a quarrel in which the plea of self-defence would be strongly urged it was decided to be a case for the courts rather than for the Committee. Accordingly Gonzalez was handed over to the city marshal.

There was a special meeting of the executive committee November 25th to examine a charge made by Joseph W. Gregory against one Sylvester, of Sacramento street, of having sent him a shipment of bogus gold dust from New York. The Committee ordered the arrest of Sylvester.

The meeting of December 10th ordered the city to be districted, and collectors sent among the citizens to gather funds for the liquidation of accrued indebtedness. A committee was appointed at the same time to prepare a suitable certificate of membership, that each member by paying for his certificate might contribute to the treasury of the society. On the next page is a *fac-simile* of the certificate.

The following, from the *Alta California* of the 22d of December, though somewhat ribald in tone, displays the state of feeling at this time of the ultra-vigilance party—I do not mean the executive, the real power of the party—heated as it was by the after-slurs of law and court officials, and their organs, to whom the Committee were ever most lenient and magnanimous:

"'The world is given to lying,' is a trite adage, if not a true one. And of all the parties who can most justly repeat the saying, the Vigilance Committee and the press of San Francisco bear away the palm. The gentlemen of the Committee have been traduced and vilified as men never were before; their motives have been misrepresented, their acts condemned as damning crimes, and all those who have countenanced and abetted them have been denounced as cowards or base panderers to depraved appetites for blood for the sake of pecuniary gain. Nor have these attacks been confined to any particular time and place. Such newspapers as had the impudence have given the slanders publicity upon the spot, while craven and coward souls who

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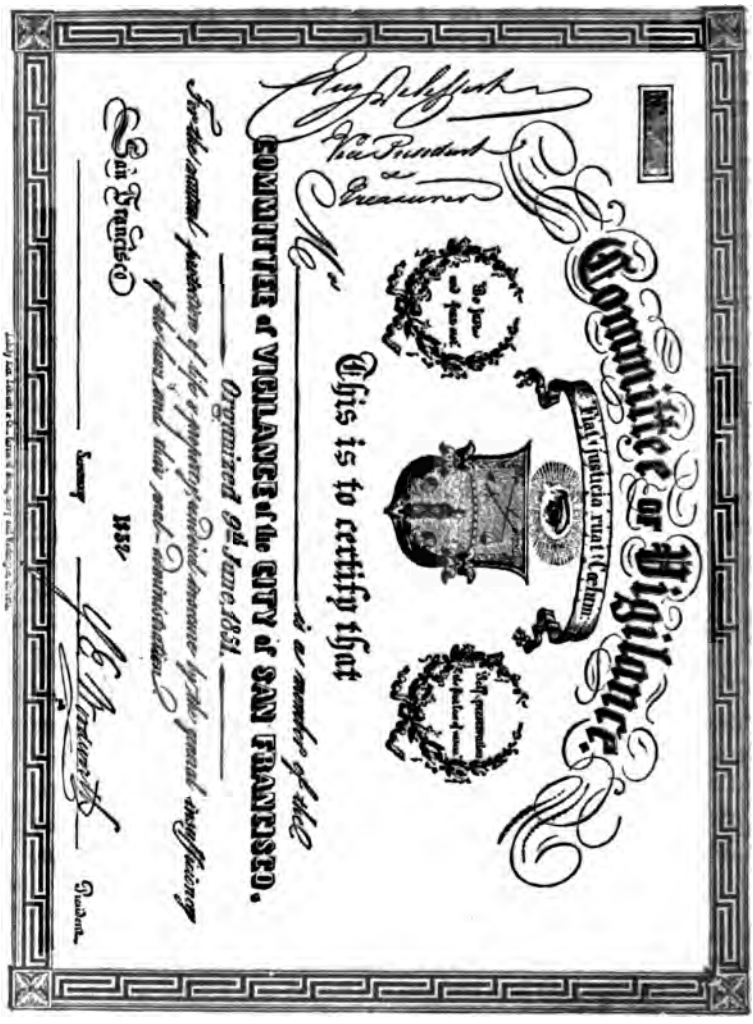

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dare not open their envenomed lips here have vented their malice through the columns of Atlantic sheets, in order, like dastards as they are, to disperse the poison of their petty hate where it might do its work of evil without the fear of contradiction and without that danger of public exposure which should brand them with the infamous title of liar. These palpable libels, these bitter outpourings of hate, have been uttered in loud and confident tones in bar-rooms and other places of public resort; and even the sanctity of our courts—those courts for which these immaculate assailers profess so much respect and regard—has been violated by the distempered ravings and scandalous asseverations of men learned in the law. It is pleasurable, though, to find that the Vigilance Committee has outlived this storm of malicious invective. Nay, more, it is a proud satisfaction to know that the good for which they strove with such unusual and deplorable means has been accomplished. Its effects are everywhere visible in the confident and successful progress which our citizens are daily making, and in the decrease of crime and consequent increase of security which our political condition evinces. These facts are broad, plain, and undeniable here, and the Committee are therefore generous enough to allow these slanderers to discharge their volley of vile missiles as they slink away into congenial and deserved obscurity. Well do we recollect the horrible predictions which were uttered with reference to the Committee. The heavens were hung with black by the disinterested votaries of law and order; tears of purest patriotism rained from their unstanched eyes as they beheld the future ruin of their country; their prophetic souls were torn with indignation at the enormities which the bloodthirsty Committee perpetrated, and their sensitive hearts were wrung with agony at the inherent sinfulness of man! How vain, how foolish, how weak were they all! Their gloomiest pictures have been proved but the silly creations of a childish brain, their stories of hobgoblins have turned out but nursery tales, and their vaunted and pretentious predictions of ruin have shown themselves nothing more than the fantastic structures of a moody, misanthropic, and maudlin imagination! But we will not exult over a fallen enemy.

"It is time, high time, that this wholesale denunciation of the press should be ended. Miserable pettifoggers, penny-a-liners, and subscribers to slanderous affidavits should be told that they will not be permitted to pursue such practices with impunity. The public should understand that such assaults upon the press are undeserved and uncalled for. Why should that portion of a community whose fortune it is to be the conductors of the press be thus overwhelmed on every occasion with charges of corruption and improper motives? Are they not men of as much virtue, firmness, talent, and honesty as any other class? Will they not compare favorably with any other section of a community, in all the characteristics and qualities which constitute the reputable and good citizen? And yet every pitiful dabster who can flourish a pen thinks he has a sort of right divine to malign, assail, and bespatter us with all the slime which a filthy imagination can create at the dictation of a wicked heart. We cannot, and we will not, bear it. We owe it to our position and to our self-respect that such vilifiers should be placed in their true light before the public; and we mean to do it for them."

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The school-master was early abroad, as the following communication shows, and with his disciples he did not hesitate to illumine the minds of men and explain to the Committee themselves the nature of the strange work in which they were engaged:

"*To the President and Members of the Executive Committee of the Vigilance Committee of San Francisco:*

"GENTLEMEN:—To-morrow evening (Wednesday) I propose delivering a lecture on the 'Anatomy of Crime,' illustrated by the skulls of Jenkins, Stuart, McKenzie, and Whittaker.

"Should you feel interested in the physiology and philosophy of the causes of mental action which prompted these men to pursue an evil course in life, I will be most happy for you to accept an invitation, which I now tender you, to form part of my audience.

"Yours, etc.,

"*September 9, 1851.* ROB. H. COLLYER."

Following are the forms in which communications were presented to the executive committee by members thereof:

"*Resolved*, That the sentence of death pronounced on the two men Whittaker and McKenzie still remain in full force, and that all necessary means shall be resorted to to obtain possession of these men, and when taken that they shall meet the punishment due their crimes, as the voice of the people demands it. Adopted.

"No. 591."

"Mrs Bridges, lives in a brown colored house on Bush street, above Montgomery, whose brother kept a tavern in Sydney, will give information in regard to a female landed from the ship *Adirondack*, whose house in Sydney was a receptacle for stolen goods, and has been the means of leading more into vice than any other female in that country. She has already taken a house, and there is no doubt it will soon be one of the greatest cribs in California.

"No. 152."

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CHAPTER XXVI.

CLOSE OF THE FIRST CRUSADE.

That which turns out well is better than any law.
Menander.

At the general meeting held the 9th of September a committee of five was appointed to select twenty-five or fifty names to be submitted to the Committee for election as an executive committee, to hold for six months, and whose duties should be to offer such council and take such action as should best promote the interest of the association. One week later the committee reported as follows:

"The committee to whom was referred the subject of selecting the names of fifty or a less number of gentlemen to constitute an executive committee, who should hold their offices for a period of six months, and to suggest such other measures as in their adjudgment may be of interest to the association and the community, beg leave respectively to report that they have selected the following names of gentlemen in number as candidates for election by the association; that they recommend, upon the election of the committee, that the association adjourn *sine die*, and that the present acting executive committee turn over to the newly elected committee all papers, books, and documents emanating from the operations of the Committee since its formation; that twenty members of this committee shall hold their office for a period of one year from the date of election, and twenty for a period of six months, the short and long term to be determined by drawing; that they shall choose their own officers, and shall have power to fill any vacancies that may arise by resignation or otherwise; that fifteen days before the expiration of the six months for which they are elected they shall call the association together and submit a report in writing of their proceedings during the period of six months, and the association shall then elect twenty members to fill the vacancies of those whose term of six months has expired; that said executive committee shall take no action for the arrest of criminals, or in any manner interfere with the due course of law, but should an emergency arise which in their judgment

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requires again the action of the association, they shall call them together by such signals as may be agreed on; that this committee be instructed to watch with vigilance the action of our courts having criminal jurisdiction, and also all men in official stations, and especially observe the operation of the laws now in force; and should they deem it expedient to have such laws altered or amended whereby greater facilities may be had to convict and punish criminals, they may be authorized to petition the legislature upon the subject and use their exertions to have such amendments carried. The association, believing that the community relies mainly upon them to shield it from the evils arising from the maladministration of the law, will hold this executive committee to a strict accountability in the performance of this duty."

On the 23d of September the following were declared elected members of the executive committee: W. D. M. Howard, Samuel Brannan, W. T. Coleman, James C. Ward, E. Gorham, B. C. Saunders, S. E. Woodworth, James King of Wm., James Dows, H. F. Teschemacher, Dr A. B. Stout, F. Vassault, J. S. Parrott, R. M. Jessup, James B. Huie, Joseph Post, Charles Griswold, Stephen Payran, H. A. Cobb, George M. Garwood, G. W. Ryckman, Thomas J. L. Smiley, John W. Cartwright, William W. Thompson, L. D. Kinnay, A. Kirchner, W. H. White, John Raynes, D. Jamorin, James M. Swift, George R. Ward, H. M. Naglee, W. Burling, I. De Long, W. C. Annan, L. Maynard, W. A. Darling, J. F. Hutton, Samuel Dewey, F. Argenti, E. Delessert, Charles L. Case, Fred Woodworth, and Isaac Bluxome Jr.

Of these the following were elected officers: Stephen Payran, president of the executive committee; Selim E. Woodworth, first vice-president; G. W. Ryckman, second vice-president; Isaac Bluxome Jr., secretary; D. L. Oakley, sergeant-at-arms; George R. Ward, L. Maynard, E. Delessert, James King of Wm., F. J. L. Smiley, finance committee; Garwood, G. W. Ryckman, Charles L. Case, J. F. Hutton, Fred A. Woodworth, qualification committee.

By the latter part of September the general committee considered its present work completed. To the new executive committee were turned over all books and documents thus far accumulated.

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Among those elected to serve for the term of twelve months were Samuel Brannan and Thomas J. L. Smiley, and among those elected to serve for six months were James King of Wm., Stephen Payran, Wm. T. Coleman, and G. W. Ryckman.

Mr Bluxome was authorized to collect delinquent dues and fines, retaining ten per cent thereof for collection. A committee was appointed by the president to prepare by-laws for the guidance of the executive committee.

From the grand jury report made the last of September I extract the following:

"The grand jury cannot help noticing the marked diminution of crime in the city and county of San Francisco within the last four months. Knowing the anxiety felt by the people, and the disturbed state of the public mind which has prevailed for the last five or six months in our city on account of the numerous acts of arson, thefts, burglaries, and murders which have been committed, this announcement is made by the grand jury with the highest satisfaction. The strong popular resistance made by the people to their criminality, the very commendable and decided action of our predecessors, and the efficient, firm, and prompt action of the honorable the court of sessions, have had a powerful influence in arresting the progress of crime, and for giving security and protection to the lives and property of our citizens. As the courts are the only lawful and constitutional tribunals to which the people can look for support and the vindication of their rights, violence and partial if not complete anarchy will follow where they fail or neglect to discharge their duty without fear, favor or affection. History proves that Americans are a law-confiding and a law-abiding people, but where they cease to have confidence in their public agents they will have their rights and property protected by tribunals of their own establishing until the laws can be executed in the spirit and letter in which they are written, through tribunals established by constitutional authority. While we regret the use of such means for self-defence, there is some palliation for such a course in the widespread alarm which prevailed lately in our city on account of the dangers that surrounded us. Should the courts continue, as they are now doing, to maintain intact and inviolate the rights of the people, under the laws and constitution of the state, we feel satisfied that no future attempt will be made on the part of the people to supersede their authority. We say, should they continue to do this, confidence will be restored, crime will be greatly arrested, and the courts will become the hope of the injured and the oppressed, and the people their loyal supporters and defenders."

At the end of September the executive committee removed to their new and less expensive quarters over

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Middleton and Smiley's auction rooms, on the corner of Battery and Sacramento streets. These rooms were carpeted and handsomely furnished. At one end of the executive chamber was a rostrum where stood the president's chair, and in front of a desk hung the banner presented by the ladies of Trinity parish. Behind the president's chair was an elegant mirror, and in the centre of the room a large table containing books and writing materials. The windows were neatly curtained, and the walls adorned with maps and pictures. In an adjoining room were stored the paraphernalia of the police, arms, chains, ropes, handcuffs, and the like.

The effects in the old quarters on Battery street, no longer needed, were disposed of by auction. I give the inventory, as consigned for sale to Messrs Cobb and Company, which tends to fill a blank in the picture of life in the Committee rooms:

32 Mattresses.	2 Tables.
41 Blankets.	6 Small tubs.
14 Pillows.	2 Large tubs.
20 Side lamps.	½ Barrel hard bread.
12 Candlesticks.	½ Tub butter.
1 Demijohn.	1 Tin lard.
1 Jug.	1 Trunk and contents.
2 Empty oil casks.	19 Window-curtains.
1 Pitcher and basin.	2 Tin basins.
1 Wooden bucket.	1 Small looking-glass.
1 Coffee-urn and lamp.	2 Tin oil cans.
1 Coffee-pot.	1 Tin pan.
1 Lot of crockery ware.	6 Broken chairs.
12 Spoons.	35 Benches.

Quite a quantity of lumber had accumulated, which was sold to Blackburn and Thompson.

At a meeting of the executive committee on the 24th of September, thirty-five members being present, with Mr Payran presiding, a committee of three was appointed to procure counsel for Mr F. A. Atkinson in the case of Metcalf vs. Argenti, Atkinson, et al.

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Subsequently, a change of venue in this suit having been ordered, the president of the San Francisco Committee wrote the president of the Committee of Vigilance of San José, requesting him to employ every effort to gain the cause.

The Committee rooms should be kept open day and night, and no member should be admitted unless his dues and fines were paid. The quarters over Middleton and Smiley's auction rooms were taken, as being central and less in price than other similar ones, though the monthly rental was four hundred dollars.

At this meeting the treasurer, Eugene Delessert, offered to loan the association one thousand dollars for sixty days without interest, in order that the outstanding bills might be paid. The offer was accepted with thanks.

By the 2d of October the finance committee were enabled to report all claims discharged, and $236.29 in the treasury.

In the daily journals of the 2d of October appeared the following notices:

"WHEREAS, An article has appeared in the *Evening Picayune* of this day stating that the Vigilance Committee had ceased active operations, and in consequence of the general condemnation of the commercial papers in the Atlantic States; therefore,

"*Resolved*, That the Committee cause to be published in the various papers of this city that they hold themselves ready for action should the community be again situated as at the time of the organization of said Committee, and that no comments of any newspaper can drive them from a conscientious discharge of their duty to their families and fellow-citizens.

"By order of the General Committee. S. PAYRAN,
"President of Executive Committee."
"ISAAC BLUXOME JR., *Secretary*."

"NOTICE.—The Executive Committee of Vigilance will meet at their chambers this evening at eight o'clock.
"By order of Committee.
"STEPHEN PAYRAN,
"I. BLUXOME, *Secretary*. *President*."

Besides acting as vermin-exterminators the Committee officiated in other capacities of scarcely less

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importance. Not only did they exercise a strict surveillance over the courts and officers of the law, but they kept within bounds the ebullitions of the people. Mobocracy they frowned upon no less than legal libertinism. Standing midway between popular extremes, they were the great balance-wheel of the social and political machinery. On several occasions toward the close of their administration, and some time after chronic villainy in its mightiest proportions had been crushed, the Committee lent their aid to suppress popular excesses as well as to bring within the embraces of the law all offenders on whom they could lay their hands.

If further proof were wanting of the integrity of the Vigilance Committee in its attitude toward law, it may be found in an event which occurred about the time of its disbandment,—I do not say disorganization. It was thought not a little strange by some of its adherents that a popular uprising which brooked no dictation from any power, and which had ranged its determinate forces against the existing courts of law and forms of justice whenever such contrivances interfered with its purpose, should upon the first occasion deemed meet in its own eyes lend law a helping hand and turn its frown upon the people.

Yet this is only what it professed from the first, namely, that the principles underlying the vigilance movement were no more mobocratic than revolutionary. These volunteers in the cause of social and judicial morals would not allow statutes and court formulas to prevent them doing the right; but they were equally far removed from permitting their fellow-citizens to overturn the law or oppose it under trivial or unnecessary causes.

In the summer of 1851 the clipper ship *Challenge*, Waterman master, sailed from New York, and arrived at San Francisco the last of October. The crew was composed mostly of foreigners, and those of the worst class. Before reaching Sandy Hook the quality of

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the crew was so clearly apparent that the owners urged the captain to put back and get new seamen. Waterman was a bold, determined man, and thought himself a match for any kind of sailors. During the voyage the crew mutinied and caused much trouble. Douglass, the chief mate, was stabbed with a dagger, and the captain narrowly escaped seizure. Amid much tribulation and danger the ship was brought safely into port.

But during the voyage Captain Waterman had been severe and even cruel; whether unnecessarily so does not appear. Three of the seamen had been knocked overboard from the cross-jack yard in a gale; five died from dysentery on the way and one from epilepsy the day of arrival. Many were maimed by the blows which they had received during the voyage, and on landing were sent to the hospital.

Immediately on dropping anchor the captain went on shore. Shortly after it was noised abroad that Waterman and Douglass had shamefully treated the crew during the voyage, unmercifully beating and even killing some of them. Boatmen and sailors were especially incensed by the account, and when the vessel hauled in to the wharf a large number of long-shoremen gathered at the foot of Pacific street, threatening to hang the captain and mate the moment they could lay hands on them. The captain deemed it prudent to retire from the city, and Douglass, who was then on board, slipped over the bow into a boat, pulled round Rincon Point, and escaped in the chaparral. This was the 30th of October. Search was made for master and mate until late into the night, but without success.

Next day the disabled seamen were removed from the ship to the hospital, and the sight raised the fury of the crowd to the highest pitch. Two thousand belligerent men gathered in front of the office of Alsop and Company, consignees of the ship, and demanded the persons of Waterman and Douglass. They were

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informed that those they sought were not there; but this did not satisfy them. Six of their number were detailed to search the premises, but their efforts were unavailing.

Meanwhile the mayor bestirred himself to quell the excitement. He first appealed to the assemblage itself, but the mob hooted him and defied the authorities. They fancied themselves already in possession of the city, and would listen to no terms which counselled moderation. The mayor called upon the citizens to assist in the preservation of the public peace. But in those days when all good men belonged to the Society of Stranglers, murderers as the court called them, outlaws as the mayor himself had said, who were the citizens?

Then it was that the much maligned Committee of Vigilance rallied to the rescue of the city's honor.

The officers of the *Challenge* might or might not be guilty of atrocities; but in either event this was not the way to determine the matter. This was not the way the Committee of Vigilance dealt with offenders. Nor would they permit the mob spirit to disgrace them or triumph over law. They themselves had been called a mob, but never were men more maligned. They had not a single element of mobocracy in their composition, except that they regarded not, at all times, the letter of the law. The mob was mobile, they were firm; the mob was passionate, they were cool; the mob hanged first and tried afterward, they executed justice only after the most solemn judgment.

In this instance, whatever the master and mate might be, they were not chronic criminals or lawless desperadoes, and therefore were not fit subjects for the secret tribunal. They were responsible men, following a legitimate calling. It was a matter for the courts only.

Then went forth the order from the executive chambers informally to disperse the rabble. Behold now

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where centred the strength of this people! Not in statutes, governors, or municipal powers, but in the citizens whom the mayor had decried in vain. Within five minutes after the order was given the Monumental bell struck its significant note, and on the instant around that California-street crowd the cry was heard, "Attend vigilants!" "Fall into line!" "March!" And they did march,—straight into the heart of that crowd, told the leaders to begone, told the enraged longshoremen to get them to their own affairs instantly, lest worse betide them. And they went; an hour later and the street in front of Alsop and Company wore its usual aspect.

Thus ended the affair so far as the Vigilance Committee were concerned. It is true that some time after there was talk at Pacific-street wharf of scuttling or burning the ship; the captain was hanged in effigy on the plaza, but no further violence was offered. The United States Marshal boarded the ship and informed the sailors that they were at liberty to enter complaint against their officers, and they did so. Of murder and maltreatment they accused them. Doubtless these men deserved the punishment they received; but it is the attitude and action alone of the Vigilance Committee that we are called upon to note in this connection.

The following letter, directed to sheriff Hays, shows the feeling then existing between the Committee and that officer:

"EXECUTIVE CHAMBER OF THE COMMITTEE OF VIGILANCE,
"SAN FRANCISCO, August 11, 1851.

"*To John C. Hays, Esq., High Sheriff for the City and County of San Francisco:*

"DEAR SIR:—Permit me, on behalf of the Committee of Vigilance, to offer you the annexed report, with the action thereon; and in their name I offer, with the concurrence of my colleagues, the thanks of the Committee for your perseverance, skill, and assiduity in bringing the affairs of our county prison to so happy an issue. We regret much that you personally should have suffered any pecuniary inconvenience in the prosecution of its financial affairs, and earnestly hope that the pittance raised by us may serve to carry out your sanguine expectations and subserve the public safety. As a public servant

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we have much in you to commend, and at all times as citizens will lend our aid to assist you in your legitimate course of office.

"May you long survive to serve the state of your adoption and receive the good wishes of your fellow-citizens.

"Very truly, your obedient servant,

"STEPHEN PAYRAN,

"*President of the Executive Committee.*"

After the relinquishment of authority by the first Committee there was little thought of prosecution on the part of any. Society was happy in its deliverance from outrages against person and property; the law was happy in the assistance which had been rendered in lifting it from low estate and restoring that rightful power and place in the affairs of the commonwealth which had been denied it; and thieves and assassins were happy that heads were still left upon their shoulders, and that affairs were no worse with them. Hence it was that grand juries, instead of presenting indictments against members of the Vigilance Committee, praised them in their reports, while lamenting the necessity of the organization.

The *Alta California* of the 25th of August speaks wisely upon the subject. Its editor writes:

"Every Californian whose business led him into the Atlantic states last year knows with what horror the action of our Vigilance Committee was viewed there. Those who were not called there, who read the Atlantic newspapers regularly, could judge something of the state of public opinion as it found expression in them. For once all parties agreed. All classes of society, the enlightened and the ignorant, the honest and the dishonest, the business men and the men of leisure, the philanthropist and the pickpocket, every one, in fact, united in one universal shout of denunciation against the Vigilance Committee of California. Every one mourned the fall of a young sister state which had excited the wonder and admiration of the whole world as one who had fallen to the very lowest scale of anarchy. Republican institutions for once had been overthrown by a lawless mob, who defied the courts of justice. Law and order were at an end. Lamentations loud and deep were uttered; and for once the capacities of the people for self-government were doubted. Anti-capital punishment men exclaimed to those who had opposed their efforts, 'See the effects of your bloody code! Blood for blood is no longer the cry; but blood is now demanded for a few paltry dollars, or for a few goods, and that, too, without a trial before a judge and jury! The evidence is offered to a mob by a mob! These are the beauties of the

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system you advocate! How do you like it?' But such expressions elicited no reply. No man who had been an advocate of capital punishment would utter one word in defence of his former opinions; but all concurred in the opinion that the institutions of California were irretrievably destroyed.

"One of us was in the Atlantic states when this excitement was at its height, when every mail steamer brought news of trials and executions by the Vigilance Committee; but it was in vain that we remonstrated against the abuse that was heaped upon this community, in vain that we told the people that the best citizens of California composed it, and that they had leagued themselves together for the protection of their lives and their property. Against us they would say, 'If this Committee be composed of good citizens, why do they not allow the proper tribunals to try those who transgress the laws?' We urged the fact that the most depraved wretches in existence, guilty beyond a dispute of the crimes charged against them, had been allowed to go at liberty times without number after going through the farce of a trial by our courts, until at last forbearance on the part of our citizens had ceased to be a virtue. The people had too much evidence that our courts had been corrupted; that the country had been overrun with convicts escaped from Van Dieman Land and other parts of the world, and the leniency of our judicial tribunals was bringing new recruits every day. But no one would listen to us. People in the Atlantic states actually believed that the press here supported the action of the Vigilance Committee only through fear of having their offices pulled down and their types and presses destroyed.

"But the Vigilance Committee neither heeded the admonitions of their law and order loving brethren of the Atlantic states, who undoubtedly meant well in tendering their advice, which was worth about the same amount as that commodity usually is when unasked, nor those who were crying for law and order here, and who only wanted to escape the punishment of their crimes. But the Vigilance Committee were the real friends of law and order, and they have succeeded in establishing such a state of quiet and safety as never could have been accomplished by our courts had they been never so good. The men who were powerful here only for evil have suffered the just reward of their crimes, or have eluded the argus eyes of the Vigilance Committee and fled to more congenial climes, the law and order loving cities of the Atlantic states. The tides of human feeling, like the tides of the sea, have their ebb and flow. They were at flood tide when our Vigilance Committee were doing their duty to the state, to society, and to themselves. Since that time the tides have receded. The tempest of abuse has been succeeded by a long calm. Those people who expressed so much pity for those who were hanged so unceremoniously here, now find a few more left of the same sort at their own doors, many of which are broken open o' nights. These poor persecuted people have sought an asylum where law and order was the cry. In New York and Boston is this especially the case. Burglaries in those cities are of very frequent occurrence, and in the former city highway robberies are not at all surprising. A resident of New York had been knocked down with a slung-shot in the night, but succeeded in attracting sufficient attention to draw the police to the spot, who captured the robbers. The man was carried home, and took his bed. When he was able to leave his

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house he inquired for the robbers, and learned that they had been discharged for want of evidence! The press of the city, without distinction of party, denounces the city government for such laxity. Justice has been robbed of its due there. No one at all acquainted with the facts doubts it. But who believes that justice there is robbed of one tenth of what it was here? No one. Our judiciary was in its infancy, theirs is in ripe manhood. But notwithstanding this the people of that city have been talking of forming a vigilance committee and taking the execution of the laws into their own hands! The New York *Times*, one of the most extensively circulated journals in the United States, has actually threatened the city government that unless they administered the laws better the people would do it themselves!

"Does any one want any better evidence that the sober second thought of the people believes the Vigilance Committee here acted otherwise than for the best interests of humanity?"

The correspondence of the London *Times* writes from San Francisco as follows:

"Regarding this Vigilance Committee public feeling is divided. All in authority and connected with the administration of the law are against the institution, while a large number, I think a majority, of the better classes of the people are in favor of it, and support it by voluntary money contributions. To understand the state of public sentiment correctly it is proper to add that, however anomalous such an institution may be in a free country, the community on the whole entertain no apprehension from it, nor is it feared that it will exceed its professed limits of weeding society of its pests. Although the existence of such a body in any other country would probably produce a reign of terror and break the bonds of society asunder, no such result is feared by us. The non-vigilance citizen is on as amicable terms with the Vigilance Committee man now as ever. As to its composition, it is, like most large bodies, a mixture of good and of bad men. Its effect has indubitably been to diminish crime, and it keeps up an unobtrusive surveillance over the suspicious members of the Committee."

In a petition signed by certain residents of San Francisco, and presented in the California legislature by Mr Wood the 27th of January, 1852, requesting that a man named Redmond might be taken by the citizens and hanged, we reach the irony of the popular administration of justice. The petition was tabled.

In reviewing the action and effect of the San Francisco Committee of Vigilance of the epoch of 1851, one cannot fail to observe with how little punishment a great reform had been accomplished. No sooner

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did the power of the organization begin to be felt in its full force than criminality was dissipated. Desperadoes, knowing that sure and swift punishment would follow their evil deeds, paused, then scattered in every direction, glad to effect their escape. California ceased to be the place for them. Thieving was no longer the safe and profitable occupation of former days. Profit was not commensurate with the risk.

And what had the Vigilance Committee done to effect this great and sudden change? It was not in the extent or magnitude of their punishments. They had executed but four persons, when fourscore should have been hanged, if law had done its simple duty. And fourscore executions could have occurred under condemnation of the law without exciting half the terror caused by these four executions by the people. Evil-doers were well acquainted with the law. They knew exactly what to depend upon in regard to law. They knew wherein they might expect the law to befriend them, and wherein to punish; where courts could be employed as protection, and in what respects it were best to avoid them. During this golden age of crime in California, like the lion and the lamb they and the law had often lain down together. Courts were the legitimate risks attending their occupation. They had no quarrel with the courts; but this new and worse than infernal agency was their abomination.

Under the old *regime* each limb of the law was as well known to the professional offender as his own limb; but under the new order of things every man he met was a spy upon his actions. Popular instinct, that greatest of social influences, he felt to be almost morbidly alive, and the odds were too great against him.

The necessity for further immediate action seeming no longer to exist, the Committee laid down their power as gladly as they had taken it up reluctantly. They did not disorganize, rightly believing that should they do so, and the fact become known, crime

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would instantly return and take courage, and the permanent result of their labors prove of little value. Adopting the wisest course possible under the circumstances, they informed the courts and their officers that henceforth, unless occasion seemed to require it, they would not interfere in the regular course of justice; nevertheless they stood ready to aid the law, by every means in their power, in any emergency.

As late as May, 1852, the executive committee were still holding their meetings, but the records close abruptly the 30th of June, 1852. There is nothing to show any extraordinary adjournment, disbandment, or ending of affairs. The chief concern at the late meetings seems to have been to collect money and pay the debts of the association. One year of toilsome duty at that time was no light matter; and the feeling seemed generally prevalent that if there was nothing more for the Committee to do, further expenditure of time was useless.

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CHAPTER XXVII.

BEFORE THE WORLD.

Things do not torment a man so much as the opinion he has of things.
Montaigne.

Often in the most liberal governments there springs from fanaticism an absolutism which rages as fiercely as any which may be found under monarchical despotism. In the midst of the vigilance movement there were promulgated by its opponents doctrines more extravagant, and sentiments more slavish, than any enunciated by worshippers of the British throne since the days of King John.

It is very easy to judge the actions of others, particularly when we know nothing about them. Critics are so much wiser than the criticised, are so much better informed than others, that no matter what a man may spend his life in studying, he has at last to awake to the disappointment of finding a hundred who have never looked into the subject knowing much more about it than himself.

The position assumed by a journal has too often little to do with the principle involved. The first question a newspaper proprietor asks in determining which side of a proposition he shall espouse is, Which will pay best? Clearly it was the correct policy of the *Herald*, which even at this early date enjoyed the patronage of the auctioneers and merchants, to sustain the popular movement. And so with the *Alta* and the *Chronicle*. The San Francisco *Morning Post*, however, saw, or thought it saw, an opening on the

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other side. There were too many vigilance journals. There were many opposed to the Vigilance Committee, and naturally enough the sentiment of law and order would increase with time, so that no little buncombe might be indulged in by combating the cause of vigilance. I need scarcely say that the *Chronicle* and the *Post* of that day were not the journals bearing the same names to-day.

The *Post*, the champion of law and order during the year 1851, as a matter of course warps all eastern intelligence to its own ends. In its issue the 10th of September the editor remarks:

"An intelligent gentleman who has just arrived in the *Northerner* informs us that in travelling throughout the northern states he found but one prevailing opinion with the class of men whose interests are connected with Californian trade, and that was that this Committee, with its peculiar and extraordinary organization, had injured the credit and standing of this city to a greater extent in the states than all the fires and other calamities we have ever suffered. This organization was urged as an objection in New York to any investments in Californian state and other securities emanating from here; and if the hanging of Jenkins on the old adobe had affected nothing else it had driven Californian securities down some fifteen or twenty per cent in the Atlantic cities. If our credit is tarnished by these proceedings it may be called croaking, or what we choose, but it does not alter the fact that the merchants and bankers of the east will regard us all with distrust, as a country without law, as a people ready to take life without legal trial, and as much more likely to repudiate any obligations, and therefore not to be trusted."

Beginning with the London *Times* of the 27th of August, we find written of California:

"Its moral condition from year to year has been apparently declining, and in place of imperfect institutions we now see a deliberate supercession of law. Were it not for the current belief to incendiarism we should hardly be warranted in drawing any positive inference from the extraordinary recurrence of general conflagrations in these distant parts. There certainly, however, is no parallel in history to the combustibility of San Francisco. The political age of the city is barely three years, and yet it has been six times destroyed by fire—destroyed, we learn, so totally that scarcely a square remained unconsumed. It has twice suffered grievously from inundations; it was horribly afflicted by the cholera twelve months ago, and its ordinary climate is said to be destructive to European health. Notwithstanding all this, San Francisco survives and increases at a rate leaving London and Liverpool far behind. The point, however, to which we would bespeak attention is the remarkable movement of opinion, in virtue of which what

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was once a barbarous process of vengeance or violence has been transformed into a recognized operation of popular justice. But it must be evident to all observers that an organized association, powerful enough to supersede the law of the land in open day, could have no possible difficulty in amending the administration of this law, had they directed their efforts to such a purpose instead of dispensing with law altogether. Very likely the jails were defective, the police remiss, the assizes remote, and the general prospect unsatisfactory; but we need waste no words in observing that, in a community pretending to some civilization, nominally well organized, and formally admitted into such a federation as the American Union, the exertions of the citizens should have been turned to supplying these deficiencies rather than to instituting precedents of which no man can calculate the evil. The English reader may probably think it a superfluous consumption of argument to prove that men should not be put to death by the agency of a mob or at the bidding of a secret society; but the tenor of our correspondence does really give a gravity and importance to these proceedings which such outrages would not otherwise possess. It is not denied that the delinquents had what in Saxon phrase is a fair trial, that they were most undoubtedly guilty, and that the system is operating to the terror of offenders hitherto incorrigible. In fact, the principle avowed is that of *salus populi suprema lex*, and the inhabitants concur in asserting that the time for appeal to this ultimate resort was uncontestably come. But they must surely see, upon reflection, that no calamity can be so truly formidable as the substitution of force for law, and that if the recognized machinery of justice be thus set aside, uncontrollable anarchy must infallibly result."

Commenting upon this the editor of the *California Courier* remarks:

"The first sentence in the above extract is true in no one particular. The London *Times* is remarkable for its vindictiveness and misrepresentation of American institutions and character. Our true character as a people has rarely been fairly presented by correspondents to journals in the Atlantic states and in Europe. They have most generally sought to manufacture magnificent stories, for the purpose of having their communications read and spoken about. To this source we attribute in a great degree the many absurd statements and unjust reflections upon the people, the institutions, and the climate of our state. The *Times* is radically in error in stating that San Francisco has been twice inundated. It has never been once, and we never expect to see it. The action of the Vigilance Committee was the result of high moral considerations. That Committee has not only arrested crime, but it has saved life and stimulated honest industry. It has made an impression that has penetrated and permeated every portion of the commonwealth that crime cannot be committed with impunity, that all men must secure a living by the sweat of their brow, in an honest calling. We are not only thankful for the good work of that Committee, but for the salubrity and purity of our climate, and the proud career which is opening for our people and the powerful young state of their adoption."

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From far away Vermont there comes a gentle wail which makes one fairly pity one's self for being of California. Thus the *Union Whig:*

"It appears that at present, her republican constitution having been found unsuited to the moral grade of the people, California is governed by the most terrible of all forms of despotism. Such is the only ground upon which the present measures can be even palliated. If the mass of the people are so corrupt that no patience and vigor of constitutional effort on the part of the property holders can afford a hope of imparting purity and certainty to the operation of law, then indeed is society virtually resolved into its elements, the constitution has ceased to be, and some form of self-protection must and ought to spring up adapted to the emergency; in other words, some form of despotism is the only alternative of anarchy for that people. Murderers unhanged, prisons and sheriff made the laughing-stock of culprits, judges corrupted, and crime stalking unrebuked at noonday, these would not persuade us that the state of things we have supposed had arrived. Patience and vigilance may gradually remedy all these, if the majority of the people so resolve, in a constitutional manner. But this fierce impatience of delay in a lawful remedy; this vengeful swiftness to shed blood; this unwillingness to suffer for the sake of constitutional liberty; all bespeak a people incapable of self-government and ignorant of the first principles of freedom. The problem for California, in the first place, is not so much whether her laws can be made more stringent and summary for the emergency, her courts purified, and her prisons fortified, as whether her people can be brought back to reason and the constitution. This done, the former may follow at once."

And again the *California Courier* takes up the gauntlet:

"In the outset the editor assumes that it had been discovered that the republican constitution and laws of this state were found unsuited to the moral grade of the people of California! Upon what information does the editor found such an assumption? On the contrary, the constitution and laws of California are admirably suited to our wants, so far as criminal matters are concerned. Had he been here and investigated the real state of affairs he would have discovered that it was for want of the proper enforcement of these laws that the services of the Vigilance Committee were brought into requisition. But the writer talks about patience and constitutional effort to bring about a remedy for the evils under which we labored. Patience! Let the editor have been placed in the situation of a Jansen, or of a brother of Reynolds, or of the sixty men who had suffered death at the hands of the assassin in our city during the year previous, or of one of the thousands who suffered from the torch of the incendiary, and reflect that in no instance had punishment been inflicted upon the guilty perpetrators, and then talk about patience! His heart must be colder than the snows of his barren Green Mountains had it not leaped for joy when a few men nobly came forward and established that terrible but just tribunal, the Vigilance Committee. There

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is in the above extract a studied attempt to create the impression that revenge or the desire to shed blood was the motive which actuated the formation of the Committee and its subsequent conduct. This idea no one here who knew the men composing it or who scanned closely their action will for a moment countenance. What were the acts of the Committee? Who did they punish? Did any innocent man ever suffer from their acts? By no means. On the contrary, what would have been the fate of Burdue had it not been for the arrest, conviction, and punishment of Stuart? The former had all the benefits of the civil tribunals, and yet was under unjust sentence for robbery and murder on two distinct charges. But the editor has made the discovery that the people of California, who have been scarce two years out of the Atlantic states, and who hail from every portion of our great and glorious Union, are incapable of self-government! What a discovery, to be sure. Here we are with the constitution and laws upset, incapable of government, trampling all laws underfoot, and yet a tax-collector makes known that seventy-five thousand dollars are wanting to meet the interest on the city debt, and in a week double that amount is raised—more money than can be squeezed out of the people of the whole state of Vermont in two years! The problem of which the editor speaks has already been solved, we trust to his satisfaction. So soon as the nest of villains who were preying upon us had been broken up, and a disposition was evinced to carry into execution our laws, just that soon did the Vigilance Committee cease to exercise its powers. But we can tell that editor, and all the world beside, that should the same necessity require it, they will resume their powers with twofold the numerical strength with which they before existed."

Thus the Philadelphia *Ledger:*

"The news from California by the *Brother Jonathan* is interesting. San Francisco seems to be a city of excitement. In the absence of fire to keep up a pleasant popular ferment the citizens resort to a different species of amusement, and hang a man under the lynch code by way of vindicating the laws and enforcing moral honesty. A miserable wretch caught stealing has been seized and hanged by a mob composed of the most respectable individuals—respectable for what? Not surely for being good citizens, supporting the law, and abiding by its decisions. The fact that they were respectable citizens who committed this act is mentioned, we suppose, to justify the outrage; but it is time that respectability in California should be taught that the law was made for all, and that its authority should be respected by all respectable or otherwise. California has made a bad beginning in this respect; and unless the real respectability of the place, the men who know that laws are made to secure their rights and cannot be violated with impunity by any mob without injury to society, unless these men should step forward and put an end to such acts of outrage and rebellion, by assisting the lawful authority and properly punishing those audacious enough to set it aside, greater calamities than have befallen California will ensue, and scenes of violence, destruction of property and life, will be the sequel of the matter. It seems that one of the principal persons who figured in this outrage is not very remarkable

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for moral honesty himself, for an occurrence of very questionable honesty in New York is related in which he is charged with being the principal actor. We see other names mentioned in the affair, of persons who may still have creditors in this part of the world who might be loath to trust the public integrity to their keeping exclusively."

Great was the loss to California that the *Ledger's* editor had not been there. It is so easy to sit in a sanctum chair three thousand miles away and tell how things ought to be! Hear him again on the 18th of August:

"This was a violation of existing laws, and rendered them technically criminal in every proceeding against anybody's life, liberty, or property. We do not justify such proceedings. They would be criminal in the last degree in any other state of the Union; and they are criminal in California so far as they are needless. The honest portion of the people might form committees to detect criminals and to aid the authorities in securing them; and so far as their laws were defective they might insist upon an immediate session of the legislature to reform them; and if they wanted confidence in their judges and sheriffs, public opinion, thoroughly roused, might compel them to reform or resign. We think that all the good done by these committees of vigilance against law might have been done according to law, by coöperation with, instead of opposition to, the civil authorities. But considering the horrible state of things in California, the result, in no small degree, of official laxity or dishonesty, much of which was imported from New York, we do not condemn their proceedings quite so severely as we should similar proceedings in any other state. A self-constituted tribunal cannot be tolerated under a regular and free government without putting all rights at hazard. But under these pressing exigencies in California we admit that a salutory terror has been inspired among criminals; and we will hope that all good citizens of that state will aid instead of acting independently of the laws."

The New York *Herald* of the 19th of September remarks:

"The prominent and by far the most conspicuous feature of the California news is the prevalence of what would be called on this side of the continent the supreme authority of Judge Lynch. In San Francisco it is the execution of the decrees of the Vigilance Committee of five hundred, not quite so ceremonious as the old Venetian Council, in the prompt punishment of criminals, and for the preservation of law and order. Strange as it may sound in this longitude, these off-hand trials and summary executions are in good faith designed for the preservation, or rather the restoration, of law and order. The criminal may be a murderer, a horse-thief, a burglar, an incendiary, a common shop-lifter, or a petty rogue, if the vigilance committee catch him and convict him he is instantly carried out and hanged up at the nearest con-

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venient tree, or beam, or rope and tackle. The crime, the pursuit, the apprehension, the indictment, the trial, the judgment, and the execution, may all take place the same afternoon. The whole business in the case of Jenkins was done in the course of an evening, by moonlight; and in the case of Stuart, another Botany Bay convict, tried also as a thief, the interval between the commencement of his trial and the hanging was about five hours. In the case of the Mexican woman at Downieville, who for fatally stabbing a miner was tried by the popular process in such cases established and convicted of murder, the blood of her victim was not yet cold when the woman, having been tried, convicted, and condemned, was swinging lifeless in the air. The Anglo-Saxon institution of the rope, by a sort of wittena-gemote or commune consilium, may be considered as pretty well established in California; but the rapidity with which it brings the criminal to his quietus is somewhat startling to a community accustomed to the slower formalities of law. This quickness of the penalty is even more astounding to our preconceived notions than the range of crimes which come under the death penalty by the new California code. We have no nice distinctions between murder and manslaughter, nor between highway robbery and a petty theft; the same judgment of strangulation makes short work of them all. Truly this is a terrible state of things, and is deeply to be deplored. But the people of California, it appears, not only have reasonable excuses for these summary and indiscriminate executions, but their situation is such as imperatively to demand them. The Australian convicts of England, the most desperate and lawless vagabonds from every nation under the sun, have been concentrating their forces in California since the golden discoveries of 1848. They have become formidable, dangerous, and criminally mischievous. Murders and robberies were multiplying; San Francisco was in the power of incendiaries, and her citizens and their property at the mercy of thieves and assassins. The existing laws were inefficient; they were so slow, and the means of confinement of offenders so insecure that the chances were in favor of their escape. Such was the state of things which led to the Vigilance Committee and its summary execution of the judgments under the new code. It appears that this Vigilance Committee act as such without pay or emolument, but simply to maintain the supremacy of the rights of life and property. There may be then no help for the existing state of things in California. It may be that the imperative necessities of self-preservation have driven the people to these extremities. We trust that law and order may soon be reëstablished and assigned to some effective guardianship under the regularly constituted tribunals of the country. We have no doubt whatever that the active, honest business community of California are laboring to this end, nor have we any doubt of their final success in attaining it."

And again on the 26th of September with somewhat more of self-complacency:

"The news from California and Lower California is of a gratifying character. We are happy to find that the popular tribunal at San Francisco, called the Vigilance Committee, has now surrendered to the legally constituted ad-

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ministrators of the law the peculiar functions which belong to such officers in all civilized communities, and that this body of men who have been forced by circumstances to usurp legal authority, in compliance with a popular instinct toward the preservation of life and property, are now no more than a force of voluntary police officers, such as are commonly found, though smaller in numbers, in every village in the United States where circumstances require such an organization for the protection of society against the lawless and licentious. It is to be hoped that other lynch tribunals in the sparsely settled districts of California will soon be dispensed with, either by the issuing of legal commissions or by some judicial means for bringing the offenders against life and property to justice. The execution of Greham at Greenwood Valley, though conducted with extra-judicial forms of law, and with exterior propriety, is an event to be deplored, however necessary such examples may seem to those who are beyond the immediate assistance of legal authorities, and who are excited to make terrible the retribution of society in cases of wanton crime."

The New York *Journal of Commerce* concludes a long account of Californian affairs in these words:

"We invoke no sympathy for the victim. He was a man of crime and blood, and his existence was incompatible with the safety of society. The vindication of public justice demanded his execution, but not by the infringement of public law. There was no risk nor peril to be apprehended from a judicial trial which the committee of seven hundred had not ample power to avert. Judge Campbell, in his charge to the grand jury, says that under the law then recently come into operation, so amended as to secure the speedy trial and conviction of offenders, the time requisite for the indictment, trial, conviction, and sentence need not exceed a week; that ample provision existed for the safe custody of criminals; and that so far from there being laxity in the execution of the laws and the administration of justice, the courts were straining every nerve to dispose of the criminal business of the county. It is morally certain that if the Vigilance Committee had surrendered Stuart to the officers of the law when his guilt was established by confession or evidence his fate would have been the same, and the society would have felt a sense of security from the triumph of law which the violence of popular indignation can never impart to it; or had it turned out that the confession was extorted by fear, and the evidence did not justify conviction, the result would have vindicated the justice of a public and impartial trial by a jury of unprejudiced men, and exhibited the danger to which innocence is exposed by secret trials and sudden executions. The right of defence, the opportunity of employing counsel and summoning witnesses, which the law gives to the accused, is a shield for the protection of innocence, and implies no sympathy with guilt. The annals of jurisprudence in all countries and in all times demonstrate the necessity of that security to the maintenance of right, and that where it does not exist the weak and simple-minded are exposed to be made responsible for the crimes of the wicked and the strong. If the state of society in California demands the existence of a committee of vigilance,

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the action of that body should be in coöperation with the officers of justice. Acting in defiance of the law, it perpetrates abuses more dangerous than those which it seeks to remedy. The defenders of this association point to its rapid increase in numbers as an evidence of its popularity. No wonder that people aspire to enroll themselves on its lists. Who would not rather be the master than the slave? It is the supreme power in the state. Its control is unlimited. Life, liberty, property, and reputation are at its mercy. In the language of the local judiciary, it overrides the laws and sets the constitution at defiance. Its organization is extending itself by branches throughout the whole of California. At the last advices, placing full confidence in the accusations of a murderer and villain whom it had just put to death for his crimes, it was scouring the state to secure the persons of those who were so unfortunate as to be obnoxious to his denunciations. Its usurpation has no limit in extent of power, and it may be that its limit of duration may be determined only when it arrives at a pitch of insolence that calls for action in virtue of the federal constitution, which makes it the duty of the United States to guarantee to every state in this Union a republican form of government."

The New York *Atlas* observes:

"It seems that the civil commotions which have recently excited and agitated San Francisco and the state generally have had the effect of crowding the steamers with passengers for the Atlantic portion of the Union. These men have become alarmed at the dangers which of late have beset lives and property on all sides, and have in consequence made up their minds to bid adieu to the Eureka state. But we think they have acted hastily in this matter, and that they regretted it ere they reached our shores. The convicts, who have succeeded by their daring crimes in spreading consternation among the honest portion of the community, will be expelled from the country or suspended between heaven and earth in due time, when order will again reign in California. In place of those who return others will emigrate from the older states who will take advantage of the opening thus made for new enterprise and new men. These men will reap the benefits which would have fallen to the older settlers who leave the country. While all this is going on, California will rise as rapidly in the path of her destiny as though nothing had taken place within her borders. In less than five years this young sister of our confederacy of republics will rival any state in the Union in most of the elements of greatness and prosperity."

In the *Asmonean* of the 15th of August is written:

"The most prominent feature of the California news is the firm establishment of the supreme authority of Judge Lynch. We who are bitter opponents of capital punishment in civilized communities deeply lament this terrible state of affairs, but considering that California is overrun not only by the convicts of Botany Bay and Norfolk Island, but by the most desperate and lawless villains from every nation under the sun, cannot but admit that

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the summary execution of the judgments of the Vigilance Committee are absolutely necessary for the maintenance of the supremacy of the rights of life and property. Society in California, disorganized by this vast accession of marauders of every type and grade, becomes resolved into its first elements, when association or combination of the well disposed to repress by stern, terrific, and rapid punishment the acts of the wrong-doer is not only justifiable but praiseworthy, and the men deserving of commendation who stand in the gap to brave the senseless odium cast upon them by those who cannot or will not see the abyss into which the community is plunged by the folly and imbecility of the administration of the law, or the laxity of the police regulations. It would be violent, mischievous, nay infamous conduct, to assemble *en masse* in the state of New York and override the civic and state authorities, to apprehend, try, and punish criminals ere the sun had set on the day on which the offence had been committed, for New York has all the appliances of an efficient force to protect her citizens; California has nothing approaching the same. She has named her authorities, but they have yet to gather the firmness necessary to make her laws efficient and respected. The position of affairs is to be deplored, not to be wondered at. There are hosts of men there who would not willingly hurt a worm; but when the incendiary and the murderer openly contemn the rights of property and the value of life, their knowledge of the duties they owe to themselves, their families, and to the moral dignity of the great Union of which they are a portion, compel them to stand forth in the breach, and declare in the name of religion and law that by the unrelenting hand of justice they will vindicate the outrages of the outlaw."

Says the New York *Express* of the 10th of October:

"The details of the later intelligence we publish this morning from California are of a character not very pleasing, certainly, to contemplate. The Vigilance Committee in San Francisco have again had occasion to demonstrate to the world that though California has on her statute-books laws as salutary and stringent as the oldest and best governed states in this Union, she has nobody with moral courage or honesty enough to have them executed. The Committee does its work of death with a systematic celerity which shows how excellent an executioner it is become from long practice. We had indulged the hope that, for the credit not of California alone, but of our common country, those terrible scenes in Sacramento and San Francisco would not be reënacted. The news in our columns this morning shows how sadly we are disappointed. The victims appear from their own statements to have been miscreants of the most abandoned character, pardoned convicts from Botany Bay, who had served a long apprenticeship to crime before entering upon their career in California."

The Buffalo *Express* offers the following pertinent remarks:

"Lynch law upon the shores of the Pacific we take to be nothing more or

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less than the expression of an earnest demand for prompt, certain, and effective justice upon wrong-doers. It pierces through the hindrances, uncertainties, and weaknesses of the British common law, and comes right to its point, inexorable as logic, and prompt to a finish. What need of alarm at the sight? At the worst, an unconstituted authority deposes the constituted authorities, and taking cognizance of offences against the laws, punishes them in a fashion not provided for in the criminal code. But when it is borne in mind that the act is done by the representatives of the entire society; that this new and summary justice is executed by those who make laws, and who appoint the executors of laws; that it emanates from a power that is behind the law and above the law, as the creator is above the creature, from a power that is the source of civil justice at the same time that it is the life of the state and the state itself, we may dismiss all apprehension for the result. California will be purer and stronger for its suspension of the constituted forms of criminal justice by the code of Lynch. But we have somewhat to do with the action of our golden-locked young sister upon the Pacific waters. From the vigorous, sensible, active state of California comes to the older states a hint and a suggestion that they would do well to heed. She demands a system of summary justice upon evil-doers. That is the upshot and final result of her lynch law, that is all there is of it. She proclaims herself tired to death of the uncertain, tedious, and inefficient processes of British law to punish and prevent crimes against civil society. Rising superior to the whining nonsense of a philosophy that discovers only misfortune in crime, and finds in every villain a brother, she with good sharp sense says that the incendiary and robber are unfit to live, that they are the sworn foes of a good society, and that she will have nothing whatever to do with them except to ascertain their true character beyond a doubt, and then to string them up to the nearest tree. The reasons which impel her to this determination are conclusive. She cannot avoid them, for arson and robbery defeat the whole object of life in California. That life is transient. Its objects are as a general thing temporary. They must be speedily accomplished. The citizens of that state mostly go there to get gold, designing not to remain there, but to return to their homes in the east as soon as they shall have got what they want. This as a general thing is their single business. Now to a man who has gone ten thousand miles away from his wife and his children on this eager and feverish errand, and who has submitted to cold, hunger, weariness, and sickness to accomplish it, what is the essence of the offence of robbery? What to him is the broad-backed lusty ruffian from Botany Bay who comes upon the sleeping miner in the dark to snatch away the fruits of his labor and the reward of his sufferings? An unendurable nuisance, as unendurable as fatal poisons, as untamable beasts, something to be got rid of and abolished instantly. The emigrants to California do not go there to establish society, and perfect civil and social character. They go there to get gold. They have no time to spend in theories of punishment, none upon prison discipline: just as little time have they to wait upon the crawling progress of justice pursuing the criminal through a court of common law. Were the quarter sessions of New York established upon the Yuba, with its adjournments on account of the heat, adjournments to let a lawyer get over a headache, adjournments upon all sorts of lying affidavits introduced to cheat justice

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and to screen scoundrels, we should consider its judgeship a very unsafe berth, and should tremble for the gentlemen who practised at its bar. What a nuisance the court would be, and how near to the truth would be the public judgment that the lawyers who conducted defences there upon the New York city model were the aiders and abettors of rascals, hinderers of right and aggravators of evil. The people of California are in an intense hurry; their wealth is in the most condensed and portable form. A robber carrying off in his hands the spoils of five minutes' work bears away a fortune for most men, and instantly beggars his victim. The case is extraordinary all around; it calls for extraordinary remedies, and it gets them. These, too, are efficacious. A thousandfold better for the best men of the country to band together justly but inexorably for the suppression of crime, to do it forthwith, spontaneously as it were, than to threaten a modification of the laws at the next session of the legislature and to stimulate a district attorney to an uncommon shedding of ink. The felons from Sydney and the outlaws of the Mississippi Valley would gorge themselves with gold while dilettanti and formalists were drafting acts to make felonies capital offences, and were checking off upon the almanac the laggard days that separated them from their next legislature. Our condition at the east is not that of California. Our society is measurably settled; we are not in a hurry; we have time to reflect and time to act. But it behooves us to think if we cannot with great profit infuse into our present criminal processes a portion of California energy and California certainty; to see if we cannot with very great advantage incorporate into our theory of punishment a portion of the California maxim, that a healthy, well fed, vigorous criminal is without excuse; that to let a lawyer shelter him under the plea of lunacy, or on the ground of an omission to dot some legal *i* or cross some common-law *t*, is on the part of the public a very costly stupidity, to see if our recent mawkish sympathy with lusty wrong-doers has not engendered crime, and hurt the sense of right and wrong throughout our entire society."

The solid men of Boston, of whom there were many in the Committee, found their action in the main fully sustained by their home journals. For instance, the Boston *Journal* remarks:

"To us, residing in the most perfect security under the operation of good laws, faithfully administered, such proceedings seem violent and perhaps unjustifiable. We cannot bring ourselves to believe that lynch law is necessary under any circumstances in a community where the people live under a code of laws of their own framing, administered by officers who are responsible to public opinion for their acts. But we are free to say that if ever the occasion justified the application of lynch law, the recent affair in San Francisco is justifiable. Such is the condition of society in California that there is no security for life or property in the regular operation of the laws. Venality and bribery have crept into the administration of justice and shaken all confidence in the majesty of the laws. Under these circumstances who will unhesitatingly assert that a scene so terrible as that enacted in Portsmouth Square will not exert a salutary influence?"

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And thus the *Olive Branch:*

"Taking into consideration that forty or fifty persons were burned to death, and seven millions of dollars' worth of property was lost by the late incendiary fire, that attempts have been made a dozen times since to fire the city, that citizens are attacked with slung-shots in their very stores, in the face of day, it is not surprising that respectable citizens and property-holders should do something to protect themselves from these gangs of organized robbers and banditti."

The Troy *Post* says:

"The news from California by the *Brother Jonathan* presents a frightful picture of the state of society in that golden state. Judge Lynch, at the last accounts, exercised supreme sway in all departments of the government; and when we look at the rampant and reckless attitude of the perpetrators of arson, robbery, and other crimes, we are almost forced to acknowledge that the sway of the judge is needed to make head against the surging flood of villainy that threatens almost to annex the new state to the infernal regions."

The Richmond *Enquirer* remarks:

"The most prominent event in the California papers is the execution of a robber by a committee of vigilance, which has caused very great excitement, as the verdict of the coroner's jury which sat upon the body was considered to reflect invidiously upon the conduct of this committee."

Says the editor of the New York *Sun:*

"We deeply regret the occurrence of a case of lynch law in the city of San Francisco. At this distance from the scene we can form no proper idea of the feelings excited on the part of the citizens of San Francisco by the high hand with which the depraved and dissolute outraged life and property. While we cannot approve the fearful act we would not say that it was done without strong provoking causes. We had thought that the recent elections would secure to San Francisco a more prompt and efficient administration of the laws, but it would seem that there has been but slight, if any, change for the better."

The Albany *Argus* thinks:

"There must be extraordinary laxity in the administration of criminal justice in San Francisco, and a still more extraordinary degree of depravity among its population, to require the voluntary organization of such bodies as the vigilance committee, with such summary and terrible powers as were exercised in the case of Jenkins. Both must have existed in a degree never before known in a civilized community to excuse such means to correct abuses or to punish crime."

The Boston *Mail* comments as follows:

"The terrible conflagrations which have destroyed so much property and several valuable lives are believed to be the work of these daring and des-

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perate men; and when it is known that the laws have proved totally insufficient to repress or check these outrages; that robbery, theft, and arson were on the increase despite all the efforts of the constabulary force, is it strange that the people of San Francisco should have felt the desperate necessity of making a demonstration outside of the courts of justice that should carry dismay into the hearts of those who were preying upon society and setting the statute laws at defiance? The people of Vicksburgh several years since thought they saw a similar necessity in the violent extirpation of gamblers; and although their action in the matter brought down upon them the most violent denunciations, it was undoubtedly the salvation of the town."

The New York *Sunday Times* thinks:

"The execution of Jenkins was of course a murder in the eye of the law, and the punishment was moreover disproportioned to the crime; and yet, taking all the circumstances into consideration, we can scarcely call the deed unjustifiable. Where the law is powerless to protect a community, it must protect itself; but we should be sorry to be one of a community so situated."

The Portland *Transcript* sides with the Committee:

"This is the first execution which ever took place in San Francisco, where more crime has been committed in the past year than in any other city of the same population in the Union, without one single instance of adequate punishment."

The remarks of the Albany *Knickerbocker* are at once sensible and true:

"The news from California, though startling, is not unexpected. The laxity with which justice is administered on the Pacific has given vice almost a license for its depredations. Where prisons are scarce and villains plenty, the law, to be beneficial, should be prompt and decisive. The slow form and special pleading which may be tolerated in this and other older states are not adapted to the wants and safety of such a people as make up the inhabitants of California. That rascals should be hanged by the populace is to be regretted—it is still more so to be regretted, however, that the inaction of the courts and police render such hanging necessary. Whether Jenkins was legally put to death is not of so much moment as whether he was justly put to death. For over a year San Francisco has been overrun by bands of desperadoes from Sydney and other English penal colonies, villains who have so reduced the price of life and property that heads and houses in California are of but little more value than pebbles. Since 1849 San Francisco has been burnt over some four or five times, and each time by incendiaries. Since 1849 over five hundred robberies and twenty murders have been perpetrated in that city; and yet, notwithstanding this frequency of crime and outrage, the first man ever brought to the gallows in San Francisco was the outlaw Jenkins who was executed on the 10th of June. If the action of the people is to be

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regretted, it is only because they did not move earlier. Had Withers, Daniels, Windred, and Watkins been promptly tried and executed when they perpetrated their villainies, the necessity for lynching Jenkins would never have arisen. To delay justice is almost as bad as to deny it. With such a population as we find in San Francisco the tardy and corrupt movements connected with the good old way of meting out punishment for crime is no more calculated to bring about a reformation than would the reading of the forty-second psalm. The action which the people have taken they were forced to take. By no other means could they impress upon the rogues which surround them the wholesome knowledge that vice is a short-lived accomplishment, and that the only way to meet with public toleration is to give up public plundering. The position occupied by the Committee of Safety is not only a necessary but a bold one. As they have placed themselves in opposition to the courts, their action will probably lead to a collision. We shall await the next arrival with some anxiety."

By far the most candid and correct view of the matter is that of the New York *Tribune*, which on the 26th of July says:

"The summary proceedings of the San Francisco Committee of Vigilance in the trial, condemnation, and execution of the thief Jenkins are not to be regarded in the light of an ordinary riot, much less as an example of hostility to the established laws heralding disorganization and anarchy. Seen from the proper point of view it is a manifestation, violent, it is true, of that spirit of order which created the state of California; and while we regret the causes which induced it, our faith in the integrity of those who perpetrated it is no wise weakened. There is no denying now that the laws of the state in their present operation are inadequate to protect the lives and property of her citizens. The amount of crime has fearfully increased during the last few months, and the existence of an organized band of desperadoes, covering a large portion of the country, has been ascertained. After seeing the fairest part of the city laid in ashes by the hand of an incendiary, and the escape through some quibble of the law of the culprit who attempted to repeat that dreadful visitation, it is not to be wondered that the merchants of San Francisco should take the administration of justice into their own hands. The names attached to the declaration of the Committee of Vigilance are those of the most orderly and influential citizens of the place, men who would not rashly venture on so hazardous a course or lightly assume so awful a responsibility. San Francisco, therefore, presents the singular spectacle of a community governed by two powers, each of which is separate and distinct from the other. They cannot come in conflict, since there is no aggressive movement against the law on the part of the Committee and no attempt on the part of the regular authorities to interfere with the action of the latter. Public opinion universally upholds the course pursued by the Committee. This course, under the circumstances, cannot be called mob law or lynch law in the common acceptation of the term. It more nearly resembles the martial law which prevails during a state of siege. It has been suggested by the presence of a danger which the ordinary

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course of law seemed inadequate to meet. Life and property must be protected at all hazards; the country is at the mercy of as vile a horde of outcasts as the sun ever shone upon; and nothing but the most prompt and relentless justice will give us security. These are probably the sentiments of nine tenths of the citizens of California. At this distance we will not venture to judge whether the circumstances demand so merciless a code; but we are sufficiently familiar with the character of the men composing the Committee of Vigilance to acquit them of any other motive than that of maintaining public order and individual security. We believe they will exercise the power they have assumed no longer than is absolutely necessary to subserve those ends, and that their willing submission to the authority of the law, when the law shall be competent to protect them, will add another chapter to the marvellous history of their state. In spite of these violent exhibitions of popular sentiment, the instinct of order, the capacity for self-government is manifested more strongly in California at this moment than in any part of the world."

And again:

"The California news by the *Prometheus* has a strange and solemn interest. To those who have traced the history of our first Pacific state through all the marvellous phases of its short existence, the present time assumes the nature of a crisis, in which order and anarchy, violence and security are struggling for the mastery. On the one hand we have a sickening succession of murders, robberies, and incendiary fires; on the other a rapidly increasing list of trials, condemnations, and executions, perpetrated with relentless severity by the summary action of the people. To those who are unacquainted with the difficulties under which California has labored ever since the adoption of her state constitution the latter alternative may appear even more terrible than the former; and a course dictated in fact by the most awful necessity which can be imposed upon any community may seem little else than the lawless outbreak of unbridled popular passion. We have been somewhat sharply taken to task by some of our contemporaries for justifying the motives of the San Francisco Committee of Vigilance, and the members of the Committee themselves have been made the subject of violent denunciation; yet every successive arrival from California proves more clearly the justice of what we first asserted, that the lynch law now in operation is not mob law, but the result of a universal sentiment of order, a conscientious belief that it cannot be obtained by trusting to the regular authorities, and a sense of danger which impelled them to immediate action. We have professed our inability to judge at this distance whether other means might not have been employed to enforce the laws, avoiding a course which must be always hazardous to the future peace of society, even when the sternest exigency compels it. The disclosures which we publish to-day show clearly the reality of the dangers to which the Californians were exposed; they show how nearly hopeless was the reliance to be placed on the ordinary operation of law. So far as the evidence goes they prove at least that there have been sufficient reasons for the action of the Committee of Vigilance to exonerate them from the violent charges which have been made against them on this side of the continent."

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Thus speaks the Boston *Traveller:*

"The fact that San Francisco is so overrun with lawless and desperate villains is sufficiently painful and alarming; but it is by no means the most alarming and painful fact communicated in the letter. We confess that we view with the utmost alarm a state of general morals which will allow, much less sanction, such an organization as that alluded to. It indicates an utter vitiation and corruption of the public functionaries of the city, and a general contempt for the administrators of the law, which is totally inconsistent with the idea that anything like a well ordered government exists in the country. Sure we are that if there is any such thing as law in San Francisco, and if there are men whose business it is to administer this law, the course adopted by this 'organization of citizens' must tend most directly to break down this law and to render powerless these officers of justice. If this organization can be sustained there is in fact an end to civil government."

And thus the New York *Commercial Advertiser* concludes a long article adverse to the vigilance movement:

"Had the Committee confined themselves to operating upon the ministers of the law, either by aiding and supporting them if they were willing to enforce the law, or by bringing such a combined public opinion to bear upon them that they would be compelled to act promptly and impartially, they would have done wisely and well; the effect would have been immediate and perpetual, and the triumph of the great principle of self-government under the restraints of law would have been complete. Very different is the case now. However much the Committee may hereafter desire it, they cannot heal the wounded honor of the defied law. They cannot at will raise its prostrate form, and reanimate it with authority and power. The Vigilance Committee may make itself feared, but it will be at an expense of popular respect and homage to the law. Moreover, a counter-vigilance committee would be quite as legal as that now existing, and might make itself as terrible. Nor is it improbable that such an organization will spring up, if every man who steals a bag of money, in the present case recovered by his pursuers, or commits any felony is to be secretly condemned to death. A vigilance committee acting with such glaring illegality, and openly avowing it without shame, may go to greater lengths of tyranny, thus provoking counter-organizations; and where will the end be? If there is, as cannot be doubted, necessity in San Francisco for organization for self-protection on the part of the citizens, let it be done, not in defiance of established law, but under its sanction. Let respectable citizens protect themselves and their property by existing law, or by amending the laws if they need amendment. Any other mode of protection must result in anarchy and ruin."

In reply to the *Advertiser*, the San Francisco *Herald*

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comes out in one of the most able editorials found in any journal upon this question:

"Among the newspapers of New York some are constantly progressive, some moderately conservative, and others possessed with a morbid conviction that unless they act as drags upon the onward movement of reform the wheels of society will go off the track and general desolation be the melancholy consequence. The hindmost of these is the *Commercial Advertiser*, a very respectable paper in its way, but never holding an opinion that anybody else holds, and fifty years behind the age, at least. If it can be regarded as the representative of any class, it is of those who hold virtue to consist in not picking pockets or otherwise rendering themselves amenable to the law, who regard money-bags as a divinity to be worshipped with their whole souls, and who worship them accordingly, with sanctimonious and grave propriety, at eleven o'clock every Sunday in the gilded and cushioned pews of Trinity or Grace. That such a paper should comprehend the difficulties, the necessities, the bitter experiences, of San Francisco is not of course to be expected; but the people of this city had a right to anticipate that it would content itself with expressing that opinion which was consonant with its antiquated, dull, and somewhat perverted instincts, without descending to absolute misrepresentation in regard to the scenes which took place in this city after the execution of the man Jenkins. Touching the acts of the Vigilance Committee, the object of their organization, the extraordinary system of police which under their auspices sprung into existence with most magical celerity all over the land, the wonderful completeness with which they have carried into execution everything they attempted from the beginning, the unerring certainty with which they pounced upon the worst characters in the community, without ever making a single mistake in regard to those whom they arrested and punished, their prudence and moderation in avoiding all difficulty or conflict with the officers of the law, and the triumphant success of their efforts to suppress crime in this city, we have already spoken many times. Their whole acts may be summed up in this, that after a fair trial, and on full evidence of guilt, they exterminated four men whose hands were stained with many and terrible crimes, and who had maintained an incessant war upon society in California; and further, that they have driven back whence they came several others, convicts from the British colonies, who also warred upon the community, but whose criminality was not so grave or so apparent as to deserve death. No innocent man has suffered death or exile at their hands, and the persons whom they have punished would have suffered equally had not the courts been inefficient or the laws powerless. So much, briefly, for the result of the Committee's labors. The *Commercial*, after stigmatizing as demoralizing, dehumanizing, and otherwise objectionable, the execution of Jenkins, traces to the agency of the Vigilance Committee the rush of the crowd at the city hall to lynch Lewis for arson, and the scenes enacted in the tumultuary assemblages on the plaza on the two days subsequent to the first execution. In neither of these proceedings did the Committee interfere in any manner. Several of the members were present at the city hall during

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the excitement about Lewis, but quite as many were opposed to the spirit of violence manifested on that occasion as in its favor. The Committee did not participate in the attempt, nor did they contribute to the excitement. Again, in the meetings held on the plaza the Committee took no part. Those assemblages were without aim or object, and anything that took place might with as much propriety be attributed to the *Commercial* itself as to the Vigilance Committee. Nor can we, and we regret to say it, refrain from believing that the charge of instrumentality on the part of the Committee in these rows, if we may so call them, has been made by that journal with malice; for in no California paper can we find aught tending to identify the Committee with these acts. The simple circumstance that Mr Brannan, a member of the body, was called upon to address the crowd is too frivolous as testimony on which to ground such a charge for a journal so serious in its character as the *Commercial*. But is not this holy horror at a crowd assembled in San Francisco through a wish to see justice dealt to a person deemed guilty of an attempt to fire the city, after two thirds of it had been already consumed, together with twenty or more valuable lives, is not this holy horror somewhat pharisaical?

"'The flesh will quiver when the pincers tear—
The blood will follow where the knife is driven.'

"And will not people complain and act when driven to the verge of despair, and heart-sick from the loss of property, and home, and friends, and even of all prospect of recuperation? We recollect being in New York some years ago, when on a certain Saturday night a young man named John C. Colt sat in the dock of the criminal court awaiting the decision of the jury, who had retired to an adjoining room to consult whether he should live or die. Through the open windows came the roar of an excited multitude, whose loud and menacing voices penetrated even the jury-room, demanding the blood of the accused. That crowd was composed of men and women, and till four o'clock on Sunday morning that hoarse cry still went up demanding blood. This happened in New York, where the *Commercial* has been established we know not how many years, and where they have their Grace Church and Trinity Church, their pews, preachers, and police, their courts, officers, and laws, on the most approved system a lengthened experience has been able to shape. We do not remember that the circumstance called forth from that journal any unusual expression of displeasure; but there is no measure to its indignation when a crowd of some few hundred persons in San Francisco make a harmless demonstration of anger and excitement against a man who, if guilty, was tenfold more criminal than Colt. We rejoice that so few of the Atlantic papers have followed the example of the *Commercial*. Some three or four indeed, through spleen or stupidity, seize the occasion to read us a lecture on our lawlessness, forgetting or ignoring the fact that we have been lawless, that is without the benefit of law, since we first arrived. It is most gratifying to perceive, however, that a large majority of the journals in the states take a liberal and enlightened view of our difficulties, and exhibit a candid appreciation of the stern necessity that impelled our citizens to uphold the laws by enforcing their execution."

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While certain journals were thus raising a great outcry against the conduct of the people of California in carrying into execution measures for the protection of life and property, within fifty miles of New York's capital were acted scenes dastardly beside the wildest lawlessness in California. Says one:

"The anti-renters in this state are getting troublesome again. A few nights since a number of them, disguised as Indians, surrounded the house of a man named Shaw, who had served process on one of them under direction of the sheriff of Rensselaer county. They took him out of bed, carried him a distance of a mile, and then tarred and feathered him. One would have supposed that his age, seventy years, would have saved him from such indignity, but it did not. Governor Hunt offers a reward of $500 to any of the participants in the outrage, to the number of five, who will inform on the others."

Commenting on the above, the New York *Mirror* remarks:

"The *Alta California*, which has been compelled to follow the example of the *Mirror* and come out double occasionally, contains full particulars of the lawless state of society in San Francisco, and, we regret to see, vindicates the resort to mob law. We took up our pen to combat the fallacies of the editor; but then we thought of the anti-rent outrages in our own state, and concluded to drop the subject. It is not two weeks since an old man of seventy was mobbed in attempting to serve a process in the state of New York, and Governor Hunt has not called out the police or the military to arrest the rebels!"

Even in staid communities it is impossible always to crush immutable truth and justice beneath dead forms of law,—instance a case tried about this time which occurred at the Old Bailey in London, Lord Chief Justice Tindal presiding:

George Hammond, a portrait painter, was placed at the bar, to be tried on an indictment found against him by the grand jury for the wilful murder, with malice aforethought, of George Baldwin, a rope-dancer and mountebank. The prisoner was a man of middle height but slender form; his eyes were blue and mild. His whole being gave evidence of subdued sadness and melancholy resignation. He was forty-one years of age; he had a soft voice, and his manner and appearance bore testimony of his being a man of

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feeling and refinement in spite of the poverty of his dress. On being called on to plead, the prisoner admitted that he did kill Baldwin, and he deplored the act, adding, however, on his soul and conscience he did not believe himself to be guilty. Thereupon a jury was impanelled to try the prisoner. The indictment was then read to the jury, and, the act of killing being admitted, the government rested their case and the prisoner was called upon for his defence. The prisoner then addressed himself to the court and jury: "My lord," said he, "my justification is to be found in a recital of the facts. Three years ago I lost a daughter, then four years of age, the sole memorial of a beloved wife, whom it pleased God to recall to himself. I lost my child; but I did not see her die. She was an angel, and beside her I had nobody in the world to love. Gentlemen, what I have suffered cannot be described; you cannot comprehend it. I expended in advertising and fruitless search everything I possessed, furniture, pictures, and even my clothes. All have been sold. For three years, on foot, I have sought my child in all the cities and all the villages of the three kingdoms. As soon as by painting portraits I had succeeded in gaining a little money, I returned to recommence my advertisements in the newspapers. At length on Friday, the 14th of April last, I crossed the Smithfield cattle market. In the centre of the market a troupe of mountebanks were performing their feats. Among them a child was turning on its head, its legs in the air, and its head supported by a halbert. A ray from the soul of its mother must have penetrated my own for me to have recognized my child in that condition. It was, indeed, my poor child. Her mother would have clasped her to her heart had she been there. As for me, a veil passed over my eyes. I threw myself upon the chief of the rope-dancers. I knew not how it was; I, habitually gentle, even to weakness, seized him by the clothes; I raised him in

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the air and dashed him to the ground. Then again. He was dead. Afterward I repeated what I had done. At that moment I regretted that I was only able to kill but one."

"These are not Christian sentiments," replied the chief justice; "how can you expect the court and jury to look with favor on your defence, or God to pardon you, if you cannot forgive?"

"I know, my lord," continued the prisoner, "what will be your judgment and that of the jury; but God has already pardoned me; I feel it in my heart. You know not, I knew not then, the full extent of the evil that man had done. When some compassionate people brought me my daughter in my prison she was no longer my child; she was no longer pure and angelic as formerly; she was corrupted, body and soul; her manner, her language, infamous like those of the people with whom she had been living. She did not recognize me, and I no longer recognized her myself. Do you comprehend me now? That man had robbed me of the love and soul of my child; and I have killed him but once."

The foreman now spoke: "My lord, we have agreed on our verdict."

"I understand you, gentlemen," answered the chief justice, "but the law must take its course; I must sum up the case, and then you will retire to deliberate." The chief justice having summed up the case, the jury retired, and in an instant after returned into the court with a verdict of "Not guilty."

On the discharge of Hammond the sheriff was obliged to surround him with an escort. The crowd of women and men was immense. The women were determined to carry him off in triumph. The crowd followed him all the way to his lodgings, with deafening shouts and huzzas.

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CHAPTER XXVIII.

EXTENSION OF THE VIGILANCE PRINCIPLE.

In my mind, he was guilty of no error, he was chargeable with no exaggeration, he was betrayed by his fancy into no metaphor, who once said, that all we see about us, kings, lords, and commons, the whole machinery of the state, all the apparatus of the system and its varied workings, end in simply bringing twelve good men into a box.

Lord Brougham.

PLATO, in his *Republic*, defines justice as "the interest of the stronger;" and however much of sophistry lies hidden in the sentiment, we find practically that it is very near the truth. The stronger will have their way, and if their way be not right or just, they will not long be the stronger. As a matter of course, by the stronger is meant not that element of the nation which may be momentarily uppermost, or which may happen to have another element at a disadvantage, but the inherent and permanent dominating strength that underlies all the vital activities of a people.

In American politics we see strikingly illustrated this self-regulating principle. Corruption is inseparable from our form of government. The system of short terms and rotation in office offers a standing reward for neglect and peculation. Political parties are essential to this system, not from the principles advocated, for the principles of either are good enough if well carried out, and there is little to choose between them, but from the necessity of keeping the pool stirred in order to prevent stagnation. The party in power must be driven out, or the certain corruption soon becomes unendurable; and so in this tread-mill,

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fashion, we must go on from one election to another, with a reform party ever at the heels of the party in office, the paramount object of the one to come within reach of power, and of the other to make the most of opportunity. But neither in parties nor politics lies the strength of the commonwealth. If it were so, God pity us! There the interest of the stronger has nothing to do with justice. It is the people, not the politicians, in whose interests lies justice; it is the people, not the politicians, in whom lies the nation's strength.

Our government is weak because the people are strong. But because a weak government is the kind that suits us best does not necessarily imply that we are best ruled by weak men, even though we seldom choose others. Because a monarchy is the strongest of governments, and an aristocracy the wisest, does not imply that we should change our republican form for another. To do so would be retrograde; yet we might safely enough give up part of our ignorance and weakness. The maxim that the king can do no wrong has in our day become literally true, for now the sovereign can do nothing except that which his ministers and parliament permit him to do. Inherent in power is decay. And unless the government is constantly refreshed by a cleansing stream flowing in from the people, it soon becomes rotten. Therefore reform the units of society if you would reform society. Wickedness in rulers is the correlative of wickedness in the people.

Compare the laws of evolution as applied to government with the behavior of the mixed population of California when left without government, and we find the two in perfect accord. Society as a whole cannot act or even exist except through the agency of some sort of influence enforcing obedience. There are two kinds of laws which underlie society, natural law and artificial law; one arises from necessities common to all mankind, and the other waits on

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fashion. The social state evolved from the domestic state implies property, marital relations, laws, and general government.

As among primitive peoples, so among the California miners, we see a state without laws, aggregations of men without government, each absolutely free, free in thought and action, so far as he himself is concerned; but let him beware how he touches another. Never did danger so attend wrong-doing: "I caught this fellow stealing my mules, and I shot him," was found written on paper pinned to the breast of a dead body lying by the roadside in 1853.

In the absence of written law speechless sentiment becomes a power keener, stronger, and more merciless than any of which man stands in awe. The laws of God and the laws of man combined are puny in their efforts at curbing the passions of wilful man as compared with the opinion of his neighbor. Give a man the sympathy of the community in which he lives, and the law cannot hurt him; and, on the other hand, let him be anathema of his fellows, and no law can save him from their vengeance.

Keenly alive and jealously sensitive are the rights of individuals and of aggregations of individuals when intrusted to their own keeping. Every man has a watch on every other man. In the absence of legal and judicial professionals, or later, in their inanity, every member of the community was sheriff, judge, and executioner.

Hence it was these miners walked circumspectly among themselves, each coveting the good opinion of his neighbor, each at once servant and master of all. To this end they purified their own motives while purging their camp of crime. And to do right, one must feel right. Right feeling begets right action. The man is surely an adept who can be one thing and throughout his life act another, who can wholly subserve emotion to cognition, and cognition to reason. Laws will not frighten men into right doing; rewards

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will not entice them. A society perfect in thought and feeling needs no laws for its regulation.

Furthermore, as in primitive communities despotism, feudal, oligarchical, or monarchical, for a time holds rule, showing the necessity of placing under restraint progressive man, so here we find a despotism of democracy. In the absence of visible forms of law there was the essence of law everywhere; just as in the progress of civilization when men arise and throw off superstition and despotism they only rivet the chains of social tyranny the tighter.

Therefore we may conclude that, properly regarded, all the mad pranks of these miners, all the social abnormities that obtained along the Sierra Foothills during the gold-gathering epoch, may be safely referred to sociological principles; just as all natural phenomena as soon as understood are found to be governed by fixed laws, when if not understood they are regarded as the results of supernatural causes. Men pray for rain because the laws of storms are ill defined; they will not pray that a stone may be turned into bread, because they know that bread is not a geological formation. So the laws which govern social development, when understood, will be found in no wise to run counter to the free-will of man, if man has free-will.

During the flush times of California there were several phases of crime in the several parts of the country. In the cities were slung-shot strikers, housebreakers, wharf-rats who preyed upon sailors and shipping, pick-pockets, sneak-thieves, safe-robbers, gentlemen forgers, and first-class burglars. In the country there was more killing, that being the more effectual way of arresting pursuit; and as the penalty for stealing was the gibbet, no severer punishment could befall the murderer. Highwaymen at intervals infested the interior, and their organizations at times assumed magnificent proportions. Horse-thieves were thick in stock localities. Miners were murdered for

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their money; a dead body beside a solitary claim was not an unusual sight; and often the thief was hanged while the murderer escaped. Then there was a large migratory class, who when one place became too hot went to another.

Following the example of San Francisco, popular tribunals were organized in every town of any importance throughout the state, and, as they became inhabited, in neighboring states. These were of every grade, and of every degree of efficiency. In the larger cities, such as Sacramento, Stockton, Marysville, Sonora, San José, and Los Angeles, were standing associations of the best citizens, which, though necessarily less in numbers, were wellnigh as complex in their organization, and fully as effective in their action, as the great committee of the commercial metropolis.

Indeed, these country committees, as a rule, had work enough to do. Though they were spared much of that kind of work incident to a seaport town, and to the prominence of the first and largest organization, yet in certain directions the labors of some of them exceeded those of the San Francisco Committee. There were fewer cases of exile in the country, but more executions. For every criminal execution by the Vigilance Committee of San Francisco there were at least twenty executions by the country committees—that is, including all of them in operation throughout the state. In one year, that of 1855, there were no less than forty-seven arbitrary executions in California; and of these, twenty-four were for theft, and nineteen for murder; the other four being for minor offences.

Thus in the larger interior cities the committees of vigilance ranked but little lower than the committee of San Francisco. Descending the scale, we have next those belonging to towns next in size and necessity, which did not keep up permanent organization, regular meetings, and active work, but which would

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as occasion required come together, organize or reörganize, and, after performing the business which called them together, disband. These impromptu organizations were usually for the purpose of trying some criminal caught before the organization was effected. Then there were many still less formal, until mobocracy in its simplest and most repugnant form was reached.

In the organization of these various country committees there was no concerted action, no general appeal other than the publication of the following notice in the journals of the 10th to the 15th of June, at the time of the first organization of the Committee of 1851:

"To the Citizens of California:

"Should the order-loving portion of the citizens of Sacramento City, Stockton, the Pueblo de San José, Monterey, Marysville, and all other towns and cities of the state, find it necessary, they are invited to form themselves into committees of vigilance, for the purposes set forth in the constitution of the Committee of Vigilance of San Francisco. The object of these committees is, moreover, for the purpose of corresponding with each other, so as to be able to mark and notice the movements of all disorderly or suspicious characters. By vigilance we may succeed in driving from our midst those who have become so baneful and obnoxious to our communities."

Thereupon the course of the citizens of San Francisco was endorsed by mass meetings held in Sacramento, Stockton, and elsewhere.

In view of these facts; in view of their existence, their universality, and their spontaneity, it seems almost an insult to reason to argue their necessity or their righteousness. And yet there are those learned in the law who will tell you to-day that the thing was unnecessary, the principle wrong, and the members of these associations murderers. Strange that men fresh from the firesides of their boyhood, fresh from the hallowed influences of home and the restraints of sober society, should so invariably and unnecessarily demean themselves as to band as lawbreakers and murderers the moment they arrived at any point on the western slope of the continent!

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As at San Francisco, so it was with these country committees of vigilance. Swift and merciless was their action; the most notorious villains were quickly judged and hanged, the lesser ones frightened away; and then, after having used with skill and moderation, and for the public good, the moral power which they had seized, they as promptly laid it down, gave California to the appointed authorities, and became at once and forever themselves the strictest observers of the law.

At various times during the epoch of 1851 and that of 1856 the question arose whether it was expedient to form of all the committees of the state one grand organization, with the San Francisco Committee as the trunk and the interior committees as the branches. Applications were frequently made by country committees to become a part of the San Francisco organization; meetings were held, and the subject at various times discussed.

But with their usual wisdom and discretion the San Francisco Committee declined all such combinations. While willing to act in perfect accord with all associations for the punishment and prevention of crime throughout the state, while earnestly desirous of giving and receiving every facility for the accomplishment of the purpose which called them into existence, the San Francisco Committee were unwilling to assume any responsibility which could not at any time be controlled within the walls of their own council-chamber. A general organization might have led to the wildest excesses in the more remote quarters and have made the central or parent committee responsible for deeds from the commission of which they would have shrunk with horror.

At an early day, long before the general uprising of 1851, in certain sections of the gold-fields the miners, more particularly the English-speaking class, and sometimes only citizens of the United States, met and adopted rules by which to be governed. These rules

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governed the title to mining claims, and protection to life and property.

At the miners' meeting called for the purpose, an alcalde, or justice of the peace, and a constable were chosen, and an official oath administered by the chairman of the meeting. In civil actions before these courts the plaintiff or defendant could, either of them, call for six jurors to assist the judge, and in criminal cases the accused was entitled to a jury of twelve men. Process was issued by the alcalde and executed by the constable, or, as he was as frequently called, the sheriff. All proceedings conformed as nearly as might be to those of an ordinary court. Appeals could be made from this court in criminal cases only to the spectators at the time of execution, who were supposed to represent the people who gave the court its authority. It was simple, but extremely significant, this ultimate appeal of the condemned, the moment before his execution, to the highest earthly authority—a most solemn appeal, but too often lightly regarded by those to whom it was made.

Upon conviction in criminal cases tried before a jury the degree of punishment was fixed by the alcalde, and it might be death, for any offence. The juror's fee was six dollars for the case, and the alcalde's sixteen dollars. The witnesses and constable were also duly recompensed.

The miners' court had its origin prior to the advent of law. Upon the legislative establishment of courts, in most localities the miners' courts gave place to them, but not always. If the leading spirits of a mining-camp were satisfied with their own judicial machinery they would neither elect under the statutes nor permit others to do so. Miners' courts were not wholly abrogated till after 1854. More particularly was this the case in criminal trials, wherein the people were provoked by the tardiness of constitutional courts.

It was suggested by one that legal tribunals should be established in the cities and throughout the country

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where justice could be instantly determined and executed; or extraordinary power might by special legislation be delegated the courts to act without the usual law's delay. Thus the chances of escape would be lessened and the cost diminished.

About midsummer, 1851, there was considerable discussion, principally among the law and order party, concerning the propriety of calling an extra session of the legislature for the purpose of so modifying the criminal code as to meet the requirements of the present social crisis. Such a movement on the part of the governor would have rendered him yet more unpopular. Aside from the expense, which for a ten days' session would have been about sixty thousand dollars, the result would have been productive of evil rather than of good. The disease was altogether beyond the reach of the physician, and further legislation would only have intensified the trouble. The law was well enough as it was; and further to complicate affairs by the propagation of yet more inefficient and corrupt officials was no way to cure crime. The people were taking care of themselves, and that in the simplest, most direct and honest method in the world—by making punishment to follow closely the heels of crime.

In 1850 statutes were enacted, and the people meanwhile administered justice by popular tribunals, or surrendered their claim to the execution of justice into the hands of the legally constituted tribunals. Now, thought they, we shall have quiet living; we may now pursue our several vocations in safety without the harassment of hunting and hanging criminals. But the people in their brighter prospect were not alone made happy. The thief, the election trickster, the murderer, these too rejoiced over a prospective reign of law, over an administration of pretended justice which should shield them from their mortal enemies, the people.

Following the great uprisings in San Francisco,

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there was a general exodus of criminals to the interior. A San Francisco paper thus sounds the note of warning:

"The recent hanging and banishing of the friends and companions of these villains in San Francisco caused a stampede for the interior and southern portion of the state, where they formed themselves into organized banditti, robbing and murdering indiscriminately. Neither sex nor age were regarded by these desperate gangs of marauders. Patience at last ceased to be a virtue; the law was found to be inefficient to punish the bloody outrages which were daily being committed; the people in the lower counties, in Los Angeles, Monterey, San Luis Obispo, and later still in Carson Valley, have been obliged in self-defence to follow the example of San Francisco and mete out a summary but just punishment to all that fell into their hands.

"The result of such summary execution is that the desperadoes have concluded that California has become too warm for them, and they have determined to shift their quarters to the new gold regions north, where the people are not so united. In that comparatively unknown country they expect to have more facilities for carrying on their unholy business, and where there will be less chance of detection. As there will be no chance of these men being supported by political plunder in the country to which they have now gone, the more desperate and dangerous will they become. Their organization, it is now proved without a doubt, is complete throughout the coast; they have their secret signs, passwords, and grips, by which they are recognized. Their threats against the members of and sympathizers with the Vigilance Committee is no idle boast. That they will attempt outrages is beyond a doubt. Their friends and abettors in this city will keep them fully posted with the names and business views of all whom they consider will afford a good show of plunder, and murder will prove their safety against further recognition or detection; for, like Jack Powers and Pio Linares, their motto is, 'Dead men tell no tales.'

"Under these circumstances what is the duty of the good, law-abiding citizens who have settled or may settle in the new mines? As to law, there is none to be had there. If it were extended over them, none of that class of so-called politicians who readily become the friends and tools of the banditti would give up their prospect of making a 'pile' to fill offices of responsibility. Our advice is for the miners to organize themselves into armed companies, keep up a strict volunteer police, and administer justice whenever required, in a manner that will deter these villains from committing crime. To be forewarned is to be forearmed. Danger to life and property stares them in the face. Then let them be prepared to prevent it at the outset. The gamblers should be shunned and scouted by all honest men; the bully and the shoulder-striker should be admonished to keep quiet and earn an honest living, or prepare to take up his traps and march. The murderer and robber should be shown no mercy. At the first unmistakable conviction of such an offence the murderer should be hanged as high as Haman, and his body left to dangle as a warning to his companions in guilt.

"This summary proceeding may sound harsh to the ears of such persons

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as have not witnessed the troubles in this state. We expect it will call forth a howl of indignation from the venal press in the interest of gamblers and thieves; but it will be disregarded as the whistling of the wind. Those who know the desperate character of these men, and are acquainted with their former vile deeds in this state, know full well that we recommend the only means which will afford safety to property and life in the unprotected country to which immigration is now pouring. Such organization of miners will also afford protection against the bold savages who inhabit the north, and who are hostile to the whites. To these savages will the desperadoes resort for protection and aid. It is the duty, therefore, of the miners to prepare for trouble. Punish the offenders promptly, and the lives of many honest and innocent men will be spared. Let them but get the start in crime, and many a happy home will be made desolate. The safety of all consists in prompt and decided action."

Throughout the interior, more than in the city, arbitrary administration of justice was regarded by the people with greater favor than the regular proceedings of courts. The institution of vigilance accorded with the spirit of the times. Its machinery was unimpeded by the friction of forms; its sentences were final and speedily executed. Then, too, it was more needed, if possible, in the country than in the cities. The people were more scattered, communities more isolated and self-dependent; they were more exposed, less capable of continuous and concerted action.

They had few jails, and thought that to stand guard over criminals captured by their own exertions and at their own expense was paying too much deference to crime; such procedure ill-accorded with their temper or means. Quick let the bad cease to be, and then each to his affairs.

So effectual were the workings of these organizations that, like all the institutions originating from the necessities of the times, the frontiersman began to like it, and to look upon it as a part of himself, his catechism, his country. After civilization had set its seal upon the town of Yankee Jim, a miner summoned as a juror in a murder case was asked by the judge if he had any conscientious scruples against capital punishment.

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"Yes, your honor, I have," he replied; "that is, unless administered by a vigilance committee."

The modes of punishment were many and varied, being always such as should bring disgrace, and usually such as should attach humiliation and pain. Shooting was sometimes employed, but not often. Whipping and driving from camp were frequent; but the most common punishment was hanging. For what better purpose did the solitary oaks send out their long, ungainly branches? It was a simple process, throwing a rope over the limb of a tree and tying one end of it round the neck of the offender. The rabble would then seize the other end of the rope and run with it as far as the ascending body would permit. Mexicans were sometimes hanged from mules, standing on the back of the animal until the rope was adjusted, when the mule, frightened by blows and yells, jumped from under the victim, leaving him suspended. At the outset punishment was not so severe as later, when the executioners had become more accustomed to the workings of the system, and to scenes of blood.

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CHAPTER XXIX.

COUNTRY COMMITTEES OF VIGILANCE.

Here is a mine of truth, which, however vigorously it may be worked, is likely to outlast our coal.

George Eliot.

Let us now examine some of the more dignified popular tribunals outside of San Francisco. It was almost simultaneously, as soon as people began to understand something of the nature of the organization of June 9, 1851, that similar associations were formed throughout the length and breadth of the land.

The Vigilance Committee of Sacramento was first formally created the 25th of June, about a fortnight after the organization of the first Vigilance Committee in San Francisco. Two hundred and thirteen members were enrolled at the first meeting, which was held at the Orleans Hotel, and thereafter the number rapidly increased. P. B. Cornwall was chosen president, and the executive committee consisted of Messrs Milne, Duryee, Rightmire, Watson, Latson, Chesley, Barker, Meeks, Leake, and Geiger.

Prior to this time, as we have seen, there had been several summary arrests and punishments of greater or less degree. But this was hardly sufficient, in view of the rapid development of events. When the best men of Sacramento saw what San Francisco was doing, saw the immediate good effects of their unique association, they obtained a copy of the constitution and by-laws of the San Francisco Committee and organized on the same plan.

In common with the entire country, the City of

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the Plains was infected with the leprosy of crime; and as this landing was then the rendezvous for adventurers from San Francisco and elsewhere to the northern mines, rascality here partook at once of the character of that of the city and of the country. Thither resorted commercial, agricultural, and mining desperadoes; sailors and professionals from San Francisco, cattle-stealers and highway robbers from the valleys, and gamblers and murderers from the mines.

We will glance briefly at Sacramento's infelicities about this time. In April, 1851, Mr Lawrence, editor of the *Times and Transcript*, was attacked by certain political desperadoes then infesting the city. A manifesto was issued, and within an hour five hundred citizens pledged themselves, in writing, to protect Mr Lawrence, and any other members of the press, against which class villainy for the moment seemed directed.

On the 17th of July following, as Mr Lawrence was passing the court-house, J. Neely Johnson stepped up and demanded whether he was the author of a certain paragraph published in the *Times and Transcript* that morning, at which Johnson had taken offence. Not receiving a satisfactory reply, Johnson seized the journalist's nose and wrung it magisterially. Lawrence drew a pistol and would have fired had he not been disarmed by the by-standers. The reader must know that this was the same Johnson who afterward, as governor of California, was so horrified at the doings of the San Francisco Committee of 1856 that he was ready, had he been strong enough, to deluge the streets of the city in the blood of its best citizens. To avenge a personal injury he did not hesitate to defy the law; but when the people themselves, for the preservation of society, laid their hand on law it was sacrilege.

Four men were caught robbing a citizen of Sacramento on the 9th of July. The crime was perpetrated

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in open day, in the suburbs of the city, and was witnessed by several persons. While the thieves were being taken before the court of sessions the Committee of Vigilance convened for deliberation, and a crowd of about one thousand persons collected before the station-house and attempted by force to obtain possession of the prisoners. A committee of three was then chosen to wait on the officers and request possession of the prisoners for hanging purposes. This request the limbs of the law very properly denied. Brought into court, the prisoners, by their counsel, insisted on the time allowed by law for the preparation of their defence, and the trial was consequently postponed. This delay caused great commotion among the crowd, and on putting the question to vote it was almost unanimously decided to hang the thieves that day. Seeing the ominous aspect of affairs, the prisoners' counsel consented to proceed to trial at once. All were convicted; one was ordered away to the state prison, and the others were sentenced to be hanged. This was the first attempt at interference with the regular process of law by the Sacramento Vigilance Committee, and the result speaks loudly their moderation.

About a week before this a man named Franklin Sanford, who had been arrested at Daylor's rancho, charged with shooting cattle and selling the meat, was with difficulty saved from the vengeance of the people. He was finally taken to Sacramento and bound over by Judge Sackett in three thousand dollars bonds.

It seemed impossible for the men of Sydney to keep their fingers from their neighbors' property. About this time, on the 8th of July, one of the fraternity who took passage on board the *Senator* for Sacramento was twice within an hour caught stealing. The first time it was a pair of shoes from a Chinaman—O base-born son of Albion! to steal the worthless wooden shoes of a greasy Asiatic! Next it was five dollars in gold which a passenger laid on the

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counter at the bar, and which the thief took up. The captain being informed of the traffic, took the offender forward to the windlass, and after giving him three dozen lashes put him ashore. The same day a thief named Hodge was arrested, who regarded his execution a foregone conclusion, and manifested profound indifference as to preliminaries.

The 22d of August, two days before the execution of Whittaker and McKenzie, there was great excitement in Sacramento. Two highwaymen, James Gibson and John Thompson, convicted some time before, were executed by the sheriff; a third, Robinson, received a respite of his sentence from the governor. This did not suit the Vigilance Committee. They demanded that Robinson likewise should be hanged, and as the sheriff had no authority to do it they did it themselves. When the hour for the execution arrived the sheriff brought the three men from the station-house, and after reading the reprieve of Robinson ordered the two who were condemned to the place of execution and the third to the prison brig, but on their way the guard of the latter was overpowered and the prisoner taken to the grove where the execution of the others was in progress. After the sheriff had discharged his duty in respect to the two condemned, and had washed his hands of what was to follow, Robinson was mounted on the same machine by the Vigilance Committee and sent speedily thence to follow his comrades. That night a mass-meeting was held at the Orleans Hotel; on motion the governor was requested to resign, after which he was hanged and burned in effigy.

Robinson's life from early boyhood was a succession of crime; he hesitated at nothing, however diabolical. He was a native of New York city, and was thirty-two years of age. While at school, and but thirteen years old, he had forged the name of a cashier of a bank at the suggestion of one Granstine, who was but a few years older, and who forged the

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president's name. They were successful in this enterprise, drawing $4500 on the check. Granstine, Robinson, and another accomplice, attempted a robbery soon after of $7000, which Granstine accomplished by the murder of a young woman, for which crime he was hanged.

Arrived at the age of sixteen, Robinson with the aid of an accomplice robbed his own father of $2500. Then going to Pittsburg he obtained a place as cabin-boy on board a steamboat. At the instigation of the steward he stole from a passenger, while asleep, $3000 in gold. Robinson met the steward again in Cincinnati; they travelled together to New Orleans, where they engaged in new crimes. Robinson obtained a responsible position in a hotel, where he remained several months. Then with accomplices he robbed the safe of $5000, for which crime he was arrested on suspicion, but was able to make apparent his innocence. Meeting on one occasion in Albany two men, Hunt and Edwards, by whom he was known as a skilful penman and a sharp rascal, they made him their partner, and expended $300 on him for dress and jewelry, that he might pass as a gentleman. After due preparation he presented at a bank a forged check for $2500, and obtained the money without difficulty. In Philadelphia, where they went immediately, he practised on one name for several days, until he was able to counterfeit it so well that on a check $20,000 was drawn from the bank. Robinson's share was $6000. He sent to his mother the larger part of it, telling her he had drawn it at a lottery. In Baltimore the associated scoundrels obtained $15,000 in the same way. In Cincinnati another check for $20,000 was successfully forged and passed. Edwards boasted his contempt for small things. At Louisville the same amount was obtained in the same way. Here Robinson, dissatisfied with the division, quarrelled with and separated from his companions.

From Louisville Robinson went to New Orleans.

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There he robbed the custom-house safe; a negro who was his accomplice was arrested on suspicion and whipped, but divulged nothing. On a plantation where he was afterward employed he opened a safe and abstracted $4000. Thence Robinson went to St Louis. A United States officer was his next victim, whose robbery yielded him $7000 which belonged to the government. He coolly stood by and saw another executed for this deed. Robinson was engaged in thefts of greater or less magnitude constantly. In travelling from one point to another his fellow-passengers were his victims. For knocking a man down with a slung-shot and taking $1300 from his belt, Robinson was arrested, but escaped by paying his lawyers liberally. In Cincinnati he and an accomplice broke open a jewlery establishment, and his partner in the crime was imprisoned for seven years. Memphis, Vicksburg, and Natchez in turn were successfully visited by this prince of villains. He sent his mother money again, $2000, leaving in his possession $800 in altered bills. Hogan, an accomplice in many of his crimes, was hanged for murder in Cincinnati. In St Louis Robinson obtained money by forgery, and as a pickpocket achieved great success. In New Orleans he was six months in the county jail for theft. At various times he was arrested, when false swearing, bribery, and the skill of lawyers cleared him.

After becoming notorious through the south and east, with detectives on his track, he came to the Pacific coast. At Marysville he attempted to kill his wife, on account of her unfaithfulness; escaping from his pursuers he went to Nevada. He followed his profession successfully wherever he went; some of his stolen goods he disposed of to Belcher Kay. In Sacramento he perpetrated many successful felonies. But his rare luck at length deserted him. With two or three companions, who had been drinking and gambling at a certain place, Robinson started for a saloon. One of the men, Wilson, was an acquaintance of but a

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few hours; he was thought to have some money upon him, and as they reached some bushes in the road Robinson and an accomplice threw Wilson on the ground, and robbed him. Robinson was soon arrested. All this on the authority of the miscreant himself, which the reader may take with whatever allowance his judgment dictates. Strange that in the heroics of crime the tendency should be so marked for the villain to magnify his own villainies. And this was the man the governor would pardon.

Henry Caulfield, who had been prominent in the Sacramento squatter riots, and John McKune, a Sacramento lawyer, were the personal enemies of Judge Wilson of the court of sessions. For some fancied wrong they determined to obtain satisfaction, and for that purpose loitered about the court-room on the morning of the 16th of June, 1852, until adjournment. McKune then accosted Wilson and demanded his retraction of abusive language. Wilson replied that he never retracted anything that he said. McKune then raised a bludgeon that he held in his hand and struck Wilson, who retaliated by thrusting his sword-cane into his adversary's side. Deputy-sheriff McDonald then disarmed Wilson, whereupon Caulfield, who had been watching his opportunity, sprang forward and fired at the judge. At that instant McDonald rushed between Caulfield and Wilson, and the ball which probably would have killed the judge passed through McDonald's body. With blood gushing from the wound, he fell upon Caulfield and wrested the weapon from him. The by-standers now entered the arena, and shooting, stabbing, and striking became general. McKune was carried away exclaiming, "I'm a dead man!" and Caulfield was arrested and placed on board the prison brig, there to await the result of the shooting. The Vigilance Committee met at the Orleans Hotel. Of this meeting the citizens were notified by a man going through the

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streets ringing a bell. When it was ascertained that the wounds inflicted were not likely to prove fatal, the decision of the meeting was to leave the matter in the hands of the law.

One Conrad Sacksin, on the night of the 27th of January, 1853, was caught in the commission of an act too infamous for record; and the description given of his punishment is scarcely more fit for perusal. He was taken to the levee, tried, and convicted. The question then arose what the punishment should be. Rev. O. C. Wheeler presented the case to the people and put the question to vote. Some were for hanging and others for mutilation. At last whipping was decided on, one hundred lashes to be the infliction. Six respectable citizens were chosen for the execution of the sentence. Then with sickening detail the matter is discussed and the punishment described in the account before me, which I will gladly spare the reader.

These examples had a beneficial effect not only on criminals but on the Sacramento courts. Justice there assumed a more determined tone. An evil-doer could not always buy off or beg off, nor could any villainous lawyer for money clear him. There is no limit to the slaughter of innocents if we may believe the martyrs to murder. On the open plain near Sutter Fort in April of this year three men were executed by the sheriff for the killing, near the corner of B and Tenth streets, of one John Carrol, known as Boot-jack. Shrived by the Rev. O. C. Wheeler, salvation they considered sure; and while in this pious state of mind they humbly confessed that they could not tell a lie, that they did not do this murder, but that it was done by a cunning child of perdition, who made his escape; nevertheless they were hanged. The position held by the Sacramento Committee of Vigilance during the past two years made it incumbent on the courts to hang somebody.

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Stockton in early times stood in the same relation to the southern mines that did Sacramento to the northern. To this point was shipped merchandise for the districts of San Joaquin, Stanislaus, Calaveras, Tuolumne, and Mariposa, which was conveyed thence by teams; and there, as in Sacramento, congregated gold-hunters and traders on their way to and from southern parts.

The destruction of the city by fire on the 6th of May, 1851, two days after the great San Francisco fire, stirred the fury in the hearts of the inhabitants. The firing of Stockton, like the kindling of San Francisco, was the work of incendiaries. There were then confined in the city prison certain noted characters whose deliverance their associates sought to accomplish, so it was thought, by these means; but the wind changing, their plans were defeated, though at the expense of the business portion of the town.

The detection of a party of horse-thieves in the vicinity of Stockton about the 1st of June led to the disclosure of a brotherhood in crime extending throughout all that region. This was the band which under Joaquin Murieta had just begun its depredations, and which was soon destined to become the terror of the country. The first one of them captured the people prepared to hang, but after undergoing the preliminary acts of strangulation he was spared on turning informer. Some of the gang were surprised at a fandango, and after being well whipped they were turned over to the authorities. In court when the informer was called upon the witness-stand he refused to testify against his accomplices, whereupon the crowd made a rush upon him to complete the unfinished acts of their tragedy, when a conflict with the authorities ensued, in which pistols were freely drawn, though no damage was done. Meanwhile a people's court assembled to try the keeper of the rendezvous, who was convicted, plunged into the river several times, and afterward stripped, whipped severely,

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and ordered to leave the town within sixteen hours. At his house were found all the implements of burglary and murder. These tools were of the finest description, such as were used by the most accomplished villains; the men were good looking and well dressed, and their assaults, the cold atrocity of their crimes, and their boldness and skill, marked them as adepts long and well practised in every species of rascality. Thus the times were becoming ripe for a more solemn declaration against criminals.

Nor was the sentiment by any means discouraged by the newspaper press. Says the Stockton *Journal:*

"Without war cry, we have an enemy in our midst whose signal is theft! murder! fire! If an enemy should attack us from without, all would rise and repel him. The laws are good for peaceful times, but for such turmoil as we now endure stringent measures are necessary."

Another writes, the 5th of June:

"The recent detection of a band of marauders in Stockton, and the watchfulness of the people both there and in this city, gives promise that, with a united effort in every portion of the country infested by these scoundrels, we shall soon be rid of their depredations. The system of rapine carried on so successfully of late commenced some few months after the first discovery of the mines; and it has continued ever since in different portions of the country generally with impunity. In the northern and southern mines the depredations have consisted in thefts of horses and cattle. In the lower ranch country, murders, plunders of houses, and robberies of stock have been from time to time committed; and in the cities the warfare has been conducted in the shape of burglary, theft, and assassination. The papers discovered on the persons of the thieves in Stockton on Monday last, as well as other developments previously made, lead to the belief that there has existed all along an organized gang of brigands, associated in crime, and conducting their Ishmaelitish war upon society in general from different points of the country. No doubt exists in the public mind that this association planned and carried into execution the recent conflagrations in this city, Stockton, and Nevada; and the various atrocities committed last summer and ascribed to the unfortunate Mexicans were unquestionably the work of this band of miscreants. There is also reason to believe that it is composed of some half-breed Indians, some few Mexicans and Americans, and the larger portion of Sydney men. That they are well practised in all manner of rascality is evident from the instruments they use in their burglaries and thefts. Their mode of practise is pronounced by police-officers to be that of perfect adepts in the profession. Their assaults and

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murders exhibit likewise a cold atrocity which can only be acquired by years of crime. It is full time some means were adopted to rid the country of this organization. The commencement should be made in this city, and the means are very simple. There are three or four gentlemen in this city who have a thorough acquaintance with the persons and haunts of all the notorious thieves and burglars. A committee of citizens should be appointed, those acquainted with them should be employed to point out these notorious characters, a vessel should be chartered and victualled, and every man known to the police to be implicated in crime should be placed on board and sent out of the country. Hanging would have an excellent effect unquestionably, but hanging one or two will not rid the community of the remainder. Let a general war be made on these scoundrels, quietly and without bloodshed let it be, but with the distinct intimation that should they ever return they will be summarily dealt with. We believe that to send them out of the country is the only effectual method of getting rid of these pests, and we trust the method will be adopted."

The law being thus pricked, as well by the vigilance association as by the press, James Wilson, *alias* Mountain Jim, one of the party just mentioned, was convicted of horse-stealing before the Stockton court of sessions in October and was adjudged to die. When the foreman of the jury delivered the verdict, the prisoner, who was lolling back in his chair looking up abstractedly at the ceiling, quietly remarked, "I expected as much, by God!"

At a meeting held in Stockton on the 13th of June, 1851, one hundred and seventy of those then present enrolled themselves as a Citizen Police, which was preliminary to the organization of a committee of vigilance. On this occasion the town was divided, and resident watchmen appointed for each district. The municipal council was then petitioned to clothe the association with authority, which being refused, the people determined to act without authority.

Dr McLean, a member of the Stockton Vigilance Committee, in July arrested a Mexican for stealing a horse, and carried the offender before the executive committee. The officers of the law, whose wits were somewhat sharper than those of their San Francisco brethren, hearing of it, arrested McLean on a charge

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of resisting the police. McLean's resistance was in refusing to give to the law a criminal he had caught at his own cost. He was forced to give bail for his appearance at court in the sum of $3000, which he did cheerfully and went his way.

A package of papers in the pocket of the editor of the Stockton *Journal* prevented the ball fired from the pistol of Mr Gaugh, district attorney of San Joaquin, from entering his heart. This was in October, 1851. There was quite a chivalrous element in Stockton in those days, at the head of which was he who was afterward Judge Terry, of bloody memory. Mark once more, the very men who most easily and naturally broke the law when it stood in the way of their bad passions were the first to denounce those who broke the law when it stood in the way of principle and common weal. I do not say that one should never lift his hand to right a wrong or avenge an insult; that is not the question. I only wonder that those who do this should talk so much about our immaculate institutions, our sacred statutes, and our holy laws.

The *San Joaquin Republican*, the first newspaper published in Stockton, was started by George Kerr in 1850. Successors to Mr Kerr were Joseph Mansfield and H. C. Patrick. Another of the earliest Stockton papers was the *Journal*, at one time edited by John S. Robb and at another time by John Tabor. Journalists in those days, like the politicians, were pugilistic in their tendencies. Positive, plain-speaking men, they often gave offence to those whose conduct was condemnable, which was too frequently the case among those who manipulated the elections or who had the handling of public funds. Editors who opposed each other in politics or public measures likewise collided.

The contest for governor in 1853 was heated, and brought out the whole strength of the contending

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candidates, John Bigler and William Waldo. The *Republican* and the *Journal* warmed into personalities, until Mansfield met Tabor one day and told him that to assail his private character would not do. Besides politics, there was trouble between these two journals as to certain spoils. To secure the public printing at a large price, it had been agreed that the *Republican* should put in two bids, taking care that both should be large enough, and that the plunder obtained in consequence of the absence of fair competition should be divided between them. All went well until the *Republican* refused to share the spoils with the *Journal*. Next day after the meeting above mentioned, which was the 22d of June, 1854, the editors again encountered each other, when Tabor without a word of warning drew a pistol and shot Mansfield dead. Mansfield was a fat, good natured man, with scarcely an enemy in the world, and the killing of him was deliberate murder. And so the jury regarded it, for they found against Tabor, and he was sentenced to be hanged. But meanwhile John Bigler was elected governor—and should he see a man strangled for zeal in his cause? By no means. Tabor was pardoned. And the pardon was in this wise: Forty thousand names asking clemency were attached to a petition; but before it went up to the governor the heading was changed from mitigation to full pardon. Vigilance slumbered.

Marysville stands near the junction of the Yuba and Feather rivers, and was once the head of river navigation in this direction, and the distributing point for the counties of Sutter, Yuba, Nevada, Sierra, and Butte.

In cases of exile the interior committees, who as a matter of course were unable to ship their criminals to foreign parts, did the best they could. If cases were chronic, and of a general character, they handed them over, with the evidence, to the San Francisco

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Committee. If local, or of a milder form of the scourge, the vagabonds were driven away to prey on others.

All along through the summer and autumn of 1851 the Committee of Vigilance which had been organized in Marysville did good service, and were largely instrumental in rendering the upper country inhabitable. In October the association resolved that a committee of ten be appointed as a standing committee, who should have power to call a meeting at any time, and do and perform such duties as might be thought necessary for the welfare of the community. They should likewise have power to adopt any rules which tended to promote the efficiency of the general body, and to fill any vacancies that might occur among their own number. F. W. Schaeffer, J. L. McDuffie, R. A. Eddy, W. W. Smith, H. Beach, L. Steinhart, Charles Gleason, John G. Smith, Charles Ball, and E. Woodruff were appointed such committee.

Early in November word was brought to Honcut by two travellers that four Mexicans had been met on the road a few miles from Natchez, one of whom was dragging a man with a lariat, whom they probably intended to murder. They were powerless to interfere, as they were not sufficiently armed to resist the Mexicans; when they reached Natchez they gave the same account to the authorities there. Parties from Honcut and Natchez started at once to make investigation. The Honcut party, after a little search, found the body of a man, which was recognized as George Mather, from Boston or vicinity, who had been engaged in transporting goods to the mines. This account they brought back to Natchez. The others soon returned, having made a still more shocking discovery, as they had found the bodies of two men, Gardner and Jinkerson, who had left Honcut rancho on foot that morning for Natchez. They probably had endeavored to rescue Mather from the

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Mexicans, and had lost their lives in the attempt. When wagons were sent out for the bodies it was found that they were lying but a hundred yards apart. Jinkerson had received seventeen stabs, almost any of which would have proved fatal; Gardner and Mather had their throats cut, and all of them had marks of a lariat upon their necks, having been dragged out of the road by that means. The pockets of all three of the young men were rifled. There had been seventeen murders committed within a few days, among others, several at Bidwell Bar, ten or fifteen miles up the river, and the people were intent upon discovering the authors of these crimes and bringing them to justice.

In the suburbs of Marysville, at what was called the Sonorian Camp, was a band of Mexicans, who were strongly suspected as the guilty party. A Mexican thief, captured by the Vigilance Committee a few days before, had confessed to the fact that the Sonorian Camp was the retreat of many well known murderers and robbers. On the night of the 12th R. B. Buchanan, sheriff of Yuba county, accompanied by a *posse*, proceeded to the camp to make an arrest. Hitching their horses a half mile distant, they advanced cautiously, the bright moonlight rendering their position all the more dangerous. Presently a large dog came out at them, and though quickly stabbed, its bark had alarmed the camp. As the sheriff's party drew nearer they saw standing by the fire a Mexican, richly attired and armed to the teeth, peering at them through the chaparral. It was afterward ascertained that this man was no other than the redoubtable Joaquin Murieta, here encamped with his band.

Being thus discovered, the sheriff endeavored to retreat; he was fired upon by the robbers, and returned the fire. For a short time there was quite a brisk engagement. The sheriff then fell back, but while climbing a fence was shot by Murieta and

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severely wounded. The city, already aroused, sent out a large force against the robbers. The camp was deserted, the Mexicans having secreted themselves in the chaparral near by. The place was surrounded, but in the darkness nothing could be done. Two shots were fired by the Mexicans from their hiding-place, when the pursuers retired, leaving a guard for the night. Next day a merchant distributed arms to twenty-five more men, who went to the chaparral, when it was found that the night guard had deserted their post, and the Mexicans had escaped. There was plainly apparent a lack of something, and the Marysville Vigilance Committee at once reörganized.

About the same time a vigilance committee was in session at Natchez for the purpose of ferreting the murderers of John B. Gardner, C. Jinkerson, and George Mather, such being the names of the men killed the 11th of November. Eight hundred dollars reward was offered by the citizens for their capture. The committee arrested several suspicious characters, but accomplished little directly.

The same week six men were murdered near Grass Valley. A vigilance committee was at once organized, armed, and mounted, with E. B. Lundy as leader. An organization of the same kind was also formed in Ophir.

In July, 1852, three several attempts were made to fire the city of Marysville, in consequence of which the Vigilance Committee assembled and instituted such diligent search for the felons that for a time quiet reigned. This organization and its successors continued for many years, for as late as 1858 we find that through the influence or agency of the Marysville Committee of Vigilance, on the 8th of January the captain of the police, by order of the city marshal, was enabled to escort to the steamboat landing five desperadoes, some of them notorious, others strongly suspected of crime. The captives were then compelled to pay their fare and depart down the river.

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Twenty lashes were given one Mercer by the Shasta Vigilance Committee the 19th of September, 1851, which work was the result of an investigation made by them in the matter of a theft committed at the St Charles Hotel the night before. It appears that Pat Sullivan had given his purse to Mercer to weigh from it an ounce of gold dust. Mercer stepped to the counter for this purpose, and when he returned to where Sullivan was sitting, as he appeared in no haste to give back the purse, Sullivan demanded it of him. Mercer gave it him, but it was lighter by more than an ounce than before. Said Sullivan: "You have taken my money." Mercer was searched, and six ounces in loose gold dust found in his pocket. Thereupon the Vigilance Committee whipped him; for of such were their chastisements.

There was a place called Mad Mule Cañon, in the Shasta district, which name was a libel on the species *asinus* beside the doings of men in that locality. One day a man, made insane by his thirst for gold, murdered his keeper and took from his belt a thousand dollars in gold dust. He then attacked another and cut him fearfully before he could be secured. To the credit of the miners be it said that to comrades so afflicted—and the cases were numerous—they manifested the utmost leniency, and treated them with every kindness, watching them with patient self-denial night and day lest they should injure themselves or others. The offenders met their just fate. But why name a cañon from a mad mule when there were so many mad men about?

A Missourian named Holt, having made a little fortune in the mines at Weaverville, was about ready to start for home. While making the necessary preparations he was murdered a short distance from town. Suspicion fell upon a man named Michael Grant, who was arrested by the sheriff. The miners seized the prisoner, and appointed from their numbers those to act as judge, prosecuting attorney, and prisoner's

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counsel. The trial was fairly conducted, responsible witnesses examined, and Grant was sentenced to be hanged. At his earnest request ten days were allowed him to arrange his business, and to prepare for death; he protested his innocence, and said that they would yet discover the guilty person. He received the ministrations of a Catholic clergyman, who was with him at the time of his death, October 5, 1852, when he was executed in the presence of a large concourse of people at Weaverville.

The Chico *Courant* thus prays for a vigilance committee in September, 1866:

"Robberies and murders are getting to be every-day occurrences in this state—altogether too frequent for the good health of the community. The fact is, as much as we are inclined to 'law and order,' we have about arrived at the conclusion that 'law and order' is too slow a coach for these rascals. We recommend that the people of the state form themselves into a huge vigilance committee and take the matter of wiping out these villains into their own hands. Wholesome killing on a general plan is what is needed."

In 1853 there was in Eureka a small unpainted house, occupied by a Jew as a clothing and shoe store. The Jew was a large man of forty, who lived with a nephew of seventeen, his only companion. After several years of successful business the Jew sold everything and prepared to remove from the place. He was known as indefatigable in business and close in his expenditures, and it was generally conceded that he must have realized considerable money. This probability tempted three burglars, McDonald, Canosky, and another, to enter his store the night previous to his intended departure, murder the Jew and his nephew, and secure the money. An hour or two later a young man in Duff and Company's mill, going through the hall on the way to his room, stumbled over what at first he supposed a bag of shot, but on examination proved to be gold. There was a light in the next room, McDonald's, and he hurriedly entered to show his treasure and ask Mc-

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Donald what he supposed it meant. McDonald replied, "We've robbed the old Jew, and I must have dropped one of his bags in the hall; give it to me." This led to further questioning and a divulgence of the truth, that the Jew had not only been robbed but killed. McDonald then acted like a man bereft of his senses. He eagerly told the story how Canosky, himself, and another accomplice entered the store at midnight. The Jew sat at a table writing, with his back to them, and the nephew was sleeping in another room. With a hatchet both the man and the boy were killed; then taking their gold a distribution was made, and each man returned to his own home with his treasure. The story McDonald told was repeated to the authorities, and two of the murderers arrested; and as there was no jail in Eureka at this time they were placed in a wooden building under guard.

There was no violent demonstration by the people, but they acted according to their custom in such cases. They met and deliberated. The third villain was still at large, and their first effort must be to find him. Accordingly they invited everybody from all the neighboring country to meet with them at a designated time. Then they adopted this novel expedient: They placed the murderers in a position where the crowd should pass them singly, and if they saw their accomplice they should indicate which he was. Many an innocent person paled as he passed under their scrutiny, for should he be pointed out, to gratify a desire for revenge or from any other motive, he was a doomed man. Their confederate, however, was not among the number, or at all events was not designated by the prisoners, nor was he ever found. Immediately afterward McDonald and Canosky were taken to a tall pine tree, where a crowd gathered and witnessed their execution. And the waves still sound their requiem on the beach where they were buried.

Early in July, 1851, a vigilance committee was formed at Nevada City, California. The attempted

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robbery of F. A. Houghton while on the way from Grass Valley to Buena Vista Ranch, together with other obnoxious doings, stimulated the action of the people. No part of the country was then safe apart from popular measures offensive to crime.

To show the aim of the San Francisco Committee in its intercourse with the interior, and the influence which must necessarily have followed from it, I give the following letter:

"SAN FRANCISCO, July 28, 1851.

"*To the Committee of Vigilance, Nevada City:*

"GENTLEMEN:—In the name of the executive committee of the Committee of Vigilance of San Francisco, and at the request of your friends, I enclose you a copy of our constitution. So far we have acted under it with success in punishing crime and bringing those in authority to a sense of their duty. Our great aim, gentlemen, is to remove corruption from high places, to advance the safety and interest of our adopted state, to establish justice and virtue, without which our fall and ruin would be certain. To secure in the future the great objects we have in view it would be well to look into the character and principles of those whom we would elevate to office, to drag out into light those who may be in office and guilty of corruption, who by their acts have produced so much evil. It is an old and popular doctrine, that it may be necessary to sacrifice the government to the people, but never the people to the government. That your course may be marked with prudence and justice, may God grant. Do not permit vindictiveness to enter into your deliberations. Be calm and determined; swerve not to the right nor to the left, but go onward in your pursuit of right. Be of one mind, and carry your point. The might, majesty, and power of the people can overcome all impending evils; like the thunders of heaven it will shake to naught all corruptive influences, and drive its authors into oblivion. Let the motto of our fathers be ours to sustain and perpetuate—Virtue, Liberty. Let us show ourselves worthy of our origin, determined to sustain and support the blessed privileges bequeathed by them to us. The moment we render up one tittle of the sacred constitution under which we were born, and which cost so much to obtain, and permit a small and corrupt minority to prescribe, we lose our caste, and our boasted institution will become the laughing-stock of the world. I have much confidence in the virtue and integrity of our brothers of the interior, that they will do what is right, and that in time. The blessed influences once enjoyed by them and us at our Atlantic homes may be felt and enjoyed throughout our Pacific homes, humbly trusting that the day is not far distant when we may pass from the north to the south, from the east to the west of our western possessions without fear or danger, and behold in every man a brother. Carry with us, brethren, the holy objects we have in view, and rest assured that erelong the mountains of the Sierra Nevada and the valleys will become redolent with charms which will so much endear

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them to us that we will not separate or leave them until we shall be called to mingle our clay with that of our loved and adopted country.

"With deep consideration of respect and esteem, gentlemen, in the name of my colleagues I subscribe myself,

"Your obedient servant,

"S. J. PAYRAN,

"*President Executive Committee.*"

Near Grass Valley in May, 1857, on a hill whose side toward the setting sun was sprinkled with log cabins and shingle shanties, in a pine forest where the stumps of felled trees marked the progress of civilization, a band of rough, bushy-headed men, in felt hats, flannel shirts, and long boots, were gathered in council. After appointing by acclamation one to preside, a speaker mounted a stump to explain the object of the meeting: "Certain men charged with having stolen a bag of gold dust from a store in their town are now in the custody of the sheriff and are about to be committed to the Marysville prison for trial." A derisive laugh by the listeners, subsiding into a growl, followed this remark. "Shall men suspected of crime be permitted to slip from our fingers and gain their liberty through process of law?" Those present manifested their dissent. "Then let a committee be appointed to move in the matter; let one of their number act as sheriff, who with a chosen *posse* shall bring these prisoners before us."

This was done. The committee was appointed by the president, who on these occasions can carry the company about where he chooses; a massive, symmetrical figure, with broad brow and intelligent eye, a splendid specimen of a man—an American miner, fit for an American senator—stepped forth in answer to his name and immediately started on his mission.

The people's sheriff confronts the law's sheriff and demands the men. The law's sheriff resists as in duty bound; indeed he mildly blusters, whereat the people's sheriff smiles and likes him none the less for that. With the prisoners the people's sheriff reports

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that the authorities opposing him were finally overcome by superior numbers; and all present inwardly declare the authorities good fellows, who know so well how gently to oppose the people's will, and then and there resolve that they shall be reëlected.

A space is now cleared and the prisoners are seated on the ground in the ring thus made, with their captors still standing over them. A court is formed, the president of the meeting acting as chief judge, and the committee before mentioned as a jury. Counsel are nominated for either side, who are paid by voluntary contributions one hundred dollars each for their services. There are present officers of the law, who enter their protest, which is as idle wind, and seat themselves and socially enjoy the occasion as uninterested spectators. An old man rises, and with gray head uncovered plainly tells the people they are doing wrong. The speaker is listened to respectfully, almost reverently, and then the work goes on.

Witnesses for and against the prisoners are brought forward. The trial lasts two days; the prisoners are found guilty. Then one of them rises from the ground and confesses the crime. Having lost his last dollar at the monte table, he says, he drank to drown thought; and while intoxicated that man—pointing to one of his fellows still lying on the ground—tempted him to rob the trader's box. This the other stoutly denies; but when the sentence is fixed at thirty-nine lashes he offers to discover to them the money if they will remit the sentence. Part of the punishment the jury will remit on the conditions named, but not the whole of it; and so a compromise is effected.

It rains next morning, and the wind blows cold for spring; yet the people's burly big-brained sheriff leads out the prisoners, strips them to the waist, ties them to a tree, scourges them, then casts them loose. Fainting they fall to the ground, curled by the whipping, sick, and moaning. They were tender thieves, or else the blows were exceptionally heavy. One,

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who had neglected to negotiate a mitigation of his penalty, dies. The others crawl away, no one knows whither.

In every Californian town not having died a natural death there are always a score or two of stirring business men of moral worth and substance. These are the *nuclei* of country committees of vigilance. These best men are usually supported by a less influential class, but five or ten of the kind first mentioned are the life of every movement.

Truckee in 1873 was one of the liveliest towns in California. The new overland railway brought to it money, merchandise, and activity; but it also brought the bad element common to new prosperous localities. The good men were thinking seriously of banding to drive out the bad when a strange incident occurred which relieved the town on the instant of two of its worst characters. Jack White and Andy Fudgett had quarrelled. Meeting one day upon the street each emptied the chambers of his navy revolver into the body of the other. Both died.

This spontaneous combustion of crime was a happy circumstance and a wholesome warning. For a time peace reigned at Truckee. But by November, 1874, villainy became unbearable, and the substantial citizens felt obliged to resolve themselves into a Committee of Vigilance. This they did, with '601' as their sanguinary symbol. Orders to leave were issued and for the most part obeyed. Two, however, a man and a woman, Bob Mellon and Carrie Prior, *alias* Spring Chicken, refused to quit the town. Mellon used to boast of having fought a duel in San Francisco with bowie-knives, Spanish fashion, the left arms of the combatants being bound together. The fair Carrie's hand was not unstained with human blood, and many men had been foolish enough to cut and shoot each other for her vile sake. Bob and Carrie must be made to go; so one day orders were issued

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for the vigilants to meet at midnight. Foremost in energy and respectability among the citizens of Truckee was D. B. Frink, a prominent member of the Committee. Writing C. F. McGlashen on that day he says: "The vigilants have business on their hands to-night. If resistance is offered, blood may be shed." It was understood that the work in hand was serious.

Masked in black cloth, covering head, shoulders, and breast, with coats turned inside out, the small men padded to look large, and the large men, contracting their breath and stature so as to appear diminutive, the society of 601 met in the principal hall. They were well armed with concealed knives, pistols, and quiet determination. Carrie felt the approaching affray instinctively. She said they might come on, that in Hayward's house, a place of bad repute situated on a back street, would be forty armed men to protect her. Mellon swore he would not be taken alive, and that he could kill at least a dozen vigilants before they could kill him.

When all was ready, silently the masked men left the hall, passed through a saloon, and surrounded Hayward's house. Four took their station at the back door. Thirty entered the front door, and demanded of Hayward the surrender of the house. No opposition was made. Two or three drunken stragglers found in the bar-room were permitted to go their winding way. Hayward was then ordered to open the door to every room. Closely at his heels followed the masked party. After examining the first floor they all proceeded through a narrow hall to the stairway, Hayward being in front carrying a light. The threats of Carrie and Mellon had led the party to expect a certain attack, and their nerves were now stretched to their utmost tension.

Suddenly through a broken panel of the back door, which opened into the hall, a pistol was thrust, whose glittering barrel covered the whole line of

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vigilants. It was black darkness without, and as the vigilants were momentarily expecting attack there was no time to be lost; so that almost simultaneously with the appearance of the pistol-barrel shots were fired from behind. Hayward and one of the men at the back door fell dead. The search was continued; the town was cleared of its bad characters; but the result of the night's work sent a thrill of horror through the community, never to be forgotten, when it was learned next morning that it was the honored and beloved Frink who was thus unintentionally killed by one of his own comrades.

At Mokelumne Hill when on the night of July 3, 1851, John Nelson entered the house of one Hall and shot him. The principle of vigilance was there, the law assisting, though the miners faintly comprehended the meaning of the term or its true significance. However, all believing it desirable and right, the legal judge and the miners *en masse* constituted the court, and at the close of the trial the judge did not scruple to ask of the crowd its verdict. About that time a case occurred at Yreka where a mob of miners attempted to take a sheriff's deputy from the jail. The citizens arose, armed themselves, and entered and defended the prison.

On the streets of Mokelumne Hill a fatal assault was made the following Christmas. A man named James Campbell mounted a mule belonging to a Chilean, and was riding off, when a friend of its owner, one Naides, stopped him and remonstrated in a quiet way, receiving in answer a blow from the bully, quickly followed by a knife-thrust in the Chilean's side, which caused immediate death, but not, however, until he had thrown his knife at Campbell, which, passing through the air a distance of ten yards, stuck in the wall of the Empire House. Campbell took refuge in a miner's cabin, but was pursued by Chileans, who fired several shots, wounding a

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number of by-standers. The crowd arrested Campbell, gave him a hurried trial, and pronounced him guilty of murder; but by a vote of the crowd he was to be delivered to the civil authorities. As the guard was about to remove him to the custody of the officers, another motion was made, this time to liberate him, and he was released. He was afterward arrested by the authorities, but escaped, when the people in their indignation formed a vigilance committee, determined to see justice done.

This Committee on the 30th of March, 1852, caught a Mexican cutting open tents and stealing gold dust, and thus argued: If handed over to the authorities he might, perhaps, be committed to the Jackson jail, where if he remained twenty-four hours it would be because he liked the accommodations and had no fear of being convicted; if whipped and turned loose, it was known from his previous bad character and vicious propensities that he would again resort to the same course; it was known that he had served several months in the chain-gang at San Francisco; if hanged, there would be one thief the less, and an awful warning thus given to others guilty of like offences. So sentence of death was passed upon the man. Carlos Eslaves, for such was his name, received information of these proceedings with the utmost indifference. Being told that his execution would not take place until the following day, he requested a good bed, some good brandy, a good breakfast, and a priest, all of which were given him. The hour arrived, he lit a cigar, marched quietly to the place of execution, coolly talked with the people, confessed his crimes, and was launched into eternity. Within a month thereafter a murderer was executed by the same Committee.

A man arrested for murder in June, 1852, was examined by the justice at Jackson and committed for trial at the next term of the district court. The Vigilance Committee had offered $300 for his apprehension, and having secured his arrest they were

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willing the law should take its course, meanwhile keeping a sharp eye upon it that it should not be subverted. This did not satisfy certain of the people, who took the prisoner from jail and hanged him. This is a fair illustration of the difference between a vigilance committee and a mob. Here in this town of Jackson were three several antagonistic powers laboring to secure the same end—a regularly constituted court of justice, a regularly organized committee of vigilance, and a passionate, revengeful, irresponsible mob. The Vigilance Committee of Mokelumne Hill, after having from an imperative sense of duty executed one criminal, and seeing the officers of the law sternly determined to do their duty, reörganized for the sole purpose of assisting legally constituted tribunals in the administration of justice.

A vigilance committee was formed at Mariposa after the funeral of an old man had taken place whose violent death in March, 1854, had been caused by Thomas Cowan, a gambler. The Committee was composed of fifty of the most respected citizens, who determined that the prisoner should have justice shown him. A mob collected and protested that they would break the jail and hang Cowan; but the Vigilance Committee remonstrated and promised that the right should be maintained. A special grand jury found a true bill against Cowan, and the Committee remained in session until the close of the trial.

The Sonora Vigilance Committee was composed of as good a set of fellows as ever strangled horse-thief. They were diligent in search and terrible in sentences, though somewhat mild in their executions. Drink, it is said, brings to the surface the natural qualities of the man. It intensifies momentary feeling likewise. The mild it mellows and the vindictive it makes makes more hateful. As few country committees of vigilance long managed their business with parched throats,

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we may infer that the bark of the Sonora Committee was sometimes worse than its bite.

Of its Vigilance Committee the Sonora *Herald* of July, 1851, thus speaks:

"Investigations of the most important character have been made, and could we tell the good people of this community all that we have learned they would approve even more heartily than now of the organization. It is just what the necessities of the case require. Rascals having been driven by scores out of San Francisco, have taken refuge here in the mountains, and were there no vigilance committees to telegraph to each other and describe the outlaws they would commit a thousand depredations before our regular citizens would know anything about their character. They are now, however, under the special observation of an argus-eyed police, so numerous and so admirably organized that more criminals can be detected in a week than by the ordinary officers of the law in a month. It is gratifying to know that the whole community have the fullest confidence in this Committee. Indeed we know not how it could be otherwise. Composed as it is of the most orderly, moral, and intelligent citizens in the place, not a few in number, but nearly the entire body, men against whom no one has ever dared to whisper a reproach, who have been marked by deeds of charity and mercy, and not by bloody acts of so-called heroism, every one feels and knows that such a body of men will do only what is right. They are cool and determined, and united as one man. The good of society and the paramount law of self-preservation have determined the path of duty, and they are men who never flinch where duty calls them to act."

So busy were the Sonora Vigilance Committee for a season that their whipped and banished averaged one a day. They had a brand made by a blacksmith, H. T., which they burned into the flesh of the hip or cheek, according to the heinousness of the offence. Beside branding, the Sonora Committee seemed to possess a fancy for shaving heads or half heads. They had a bad element to deal with. On the 15th of July a Mexican was tried before them for stealing a horse. Most committees would have hanged him instantly. The man was large, muscular, and capable of much endurance; an ordinary whipping would be no more to him than the switching of a big boy by the school-mistress. The Committee thought it no more than right for them to give according to the prisoner's ability to receive. A hundred and fifty

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lashes and H. T. to be branded on the cheek was the verdict. The sentence, though they thought it severe, seemed necessary. At all events they might so far favor the culprit as to administer it in homœopathic doses. So at the expiration of every twenty-five blows they permitted the recipient to rest; and finally, on his promising to quit the country, they remitted the branding. At another time, after administering one hundred and fifty lashes each to three horse-thieves and then shaving their heads, they collected a purse for them, that they might be delivered from temptation.

On the 16th of September the Committee tried and convicted a Sydney convict for horse-stealing. The condemned was sentenced to receive on the bare back one hundred lashes and to have one half of the head shaved. The tender-hearted miners, however, paused at the seventy-fifth blow and let the sufferer loose. Shortly before the Committee inflicted seventy-five lashes and shaved the head of a Mexican for stealing a six-shooter.

The Sonora *Herald* about this time, speaking of the arrests by this tribunal and the punishment of lashing, says:

"We believe these are the first cases before the Committee for a long time; not that the diminution of crime is so great but that the courts under the new criminal organization are fast superseding the want of a vigilance association. Rogues are now brought up and meet with speedy trials; justice is no longer tardy in its operations. We hope, now that this desirable change in the administration of law has been brought about, that the Committee will act as an adjunct to the authorities in the detection of crime, and hand over all cases to the courts for punishment."

At Tim's Garden, one mile from Columbia, in October, an honest old miner named Crowning was robbed of hard-earned gold dust to the amount of $600. He had left it in the pocket of a coat which he had thrown down beside his claim when he went to work in the morning, and at noon on looking for his coat it was missing. Suspicion fell on one

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W. E. Conkling, who had been seen hovering about the spot during the forenoon. Search was made, and the man found at a monte table with some of the dust still in his possession. He was only speculating with the funds of another, and would have paid it back if successful. He was tried by the Vigilance Committee of the place and given seventy-five lashes. Very moderate for Columbia in the year 1851.

In the summer of 1858 the town of Visalia stood upon the frontier, somewhat remote from the more settled portions of California. Population was sparse, the courts poorly organized, and the greater part of the inhabitants wild and lawless. Some of them were followers of the Mormon prophet; others were emigrants from the confines of civilization. There was not a jail in Tulare county. A rough shanty in an oak opening constituted the court-house. In the centre of the shanty, whose floor was the solid earth, was the stump of a large oak tree, to which was attached a ring-bolt. This stump and ring-bolt was the county prison; for to it felons were chained and a guard placed over them. On the 27th of July Sheriff Poindexter arrested one William C. Deputy, called by some a bad character, on complaint of his nephew, J. D. Stapleford, who alleged that Deputy had defrauded him of lands and moneys amounting to the value of $30,000 or $40,000. The sheriff placed Deputy in the jail and chained him to the stump, a treatment imposed upon all prisoners charged with a state prison offence. Deputy was an old man, and because he was a Mormon all the more people called him an unprincipled villain, and he was shunned and detested in the community. They said he held in his possession at the time of his arrest, as a confidential trust, property belonging to his nephew, Stapleford, which he now persistently refused to recon vey. A lawyer was employed to compel the man to disgorge the funds, but Deputy had concealed his

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tracks with such skill as to defy detection and defeat legal proceedings. Stapleford was duped; the law could not help him to obtain restitution; nothing would avail but to compel the man to sign over his ill-gotten gains. He stated his grievances to his friends, and enlisted the sympathy of the community. They knew of but one way to adjust the difficulty, and in the thinly settled frontier counties it was a method frequently employed. They would form a vigilance committee, and would compel the old man to sign the papers. They believed Stapleford to be right, and they would help him to that justice which the law could not give; and yet had not Deputy been a Mormon I doubt if such high-handed proceedings would have been popular in a matter of property only. Nevertheless the so-called Vigilance Committee were impatient for the night, productive, as they anticipated, of a triumph of justice and right. To accomplish their purpose the best citizens sometimes united with the worst. Men of intelligence and probity were not unfrequently overawed and kept in circumscription by the turbulent and irresistible element which so largely predominated in Visalia. But now their cause was made a common one, and there was not a single individual who opposed the plan made known to the assembled crowd that gathered and determined upon action. That night between eleven and twelve o'clock they marched to the court-house, where they found Deputy guarded by two armed men, who presented but a slight obstacle to the pursuance of their object. They entered the room, took Deputy from the bench upon which he was lying, and led him out to the northern section of the town, where he was placed beneath a tree, from which a rope was already swinging. The rope was then adjusted about his neck, and he was informed that his life would be forfeited unless he complied with their demands in regard to Stapleford's property. This he refused to do. Two or three times he was swung in the air and lowered,

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until finally he promised to do what was required, provided that he should be released from custody and from the charge of felony then pending against him. This was granted, when he made full confession, promised restitution, and gave account of what he held. He was then taken back to the room and again chained, to await until morning the appearance of the lawyers. The sheriff then placed a strong armed force about the prison to prevent further violence, and remained with Deputy throughout the following day. The next morning a notary was summoned, who drew up a deed, and asked Deputy if he cheerfully and willingly would sign the paper. There were several persons present who witnessed the proceedings, among others one Douglass, a lawyer called a man of rectitude. He talked with Deputy in a friendly way, advising him to sign the paper, which he did, and which Douglass attested. The acknowledgment was then taken by the notary, and his seal affixed. Not the slightest coercion was used, it was claimed, the old man readily assenting to whatever was required. Deputy was then released, and all charges made against him withdrawn. Immediately upon his release Deputy went to San Bernardino, and there appealed to the courts, endeavoring to be reinstated in possession, but was unsuccessful in his application.

The Ku Klux Klan organization, which achieved such prominence in the southern states, seems to have occasionally cropped out on the Pacific coast. On the 25th of August, 1868, the body of B. S. Templeton of Visalia was found hanging from a tree on the banks of the Tule River, about thirty miles from his home. The hanging was charged to the Ku Klux Klan. At the same time mention is made of depredations caused by a band under this name in Sam Valley, Jackson county, Oregon. Their operations seemed confined to poisoning cows, horses, and other live-stock, and to warning one or two citizens.

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To cut short the trickeries of law by means of which the brothers Thomas and William Yoakum had escaped punishment for one murder, and seemed by new trials, change of venue, and other court divertisements about to clear themselves from another, seventy-five of the people of Bakersfield—some say forty—on the 28th of May, 1878, forced open the jail door, covered the officers with their guns, entered the cells of the Yoakums, and hanged them there. There was much shooting in this affair, one of the prisoners receiving five balls before he was hanged, and several of the vigilants were wounded, unintentionally, by their associates. Though chained to the bottom of their cells, the Yoakums fought desperately before yielding. Two men, William Johnson and Hamilton J. Tucker, had been their victims, killed more than a month previous on account of a quarrel growing out of mining matters.

On the 24th of December, 1872, Charles Allen, proprietor of a saloon in Visalia, was shot by one James McCrory, between whom and himself an intimate friendship had apparently existed, Allen having shown McCrory every kindness, even to giving him $100 a few hours previous to his death. There was not the slightest provocation for the murder. Allen asked McCrory what he and another man were quarrelling about, when McCrory replied, "I would just as soon shoot you as anybody else!" and immediately levelled at him the revolvers which he held in each hand. Allen implored him, "For God's sake, don't shoot me! I'm unarmed!" but McCrory fired several shots, until assured of his victim's death. McCrory was arrested by the sheriff and lodged in jail. He was a desperate character, and although upon several trials for murder convincing proof had been presented, he had always been acquitted. The people were now unwilling to trust again to the law, and on the following morning the Vigilance Committee entered the jail and forced McCrory to his place of execution, a

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bridge in the vicinity. Before the crowd dispersed a collection was made to defray the expenses of the burial. During the winter of 1873–4 a new Vigilance Committee was organized at Visalia for Tulare and adjoining counties. Owing to the watchfulness exercised by the inhabitants of the coast counties, hordes of highwaymen, horse-thieves, and cutthroats, were driven back into the Tulare region, which led to active measures by the people of that vicinity. Following this movement, many Mexicans, and indeed all of every nationality who could not satisfactorily account for themselves and the method of their living, were directed to go, lest worse should befall them.

Very prompt to form and very efficient was the Santa Clara Vigilance Committee, organized to act in concert with the Committee of San Francisco. Herewith I give a copy of proceedings at their first meeting:

"At a meeting of the citizens of Santa Clara, held pursuant to public notice, Mr Joel Clayton was called to the chair, and Mr R. Bucknor appointed secretary. Mr Pierson addressed the meeting, and stated the object to be to take measures to act in concert with and approve the proceedings of the Vigilance Committee of the citizens of San Francisco, and offered the following resolutions, which were unanimously adopted:

"'*Resolved*, that we deeply sympathize with the citizens of San Francisco in their losses sustained by the late fires; that as we believe the late disastrous fires to have been the work of a regular band of thieves and incendiaries too fiendish and dangerous to be suffered to prowl about San Francisco; that as we believe our interests are identified with the sustaining of that city, we will heartily second and assist the citizens to detect, bring to justice, and punish the scoundrels that infest that city; that we consider the hanging of the notorious burglar and thief Jenkins entirely justifiable, and in our opinion it is the shortest and only way to save the lives and property of citizens; that we hereby call upon the Vigilance Committee of San Francisco to transmit to the Vigilance Committee of this place descriptions of suspected desperadoes whenever they shall hereafter leave that vicinity; that we call upon the press of San Francisco to publish these resolutions, and assure their citizens that if a vigorous effort should be made to free themselves from the pest we will come to their assistance *en masse* if necessary.'

"Mr Gates then moved that those present form themselves into a Vigilance Committee, which motion was unanimously adopted, and the chairman, Mr Clayton, elected president of such committee, and Mr Gates secretary.

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On motion of Mr Gates a committee of five, consisting of Mr Pierson, Captain Rush, Mr Buckner, Colonel Davis, and Mr Buffum, were appointed to draft resolutions and rules to govern the action of the Vigilance Committee; whereupon the meeting adjourned to Thursday evening, the 26th inst.

"JOEL CLAYTON, *Chairman.*

"R. B. BUCKNER, *Secretary.*

"*Santa Clara, June 25, 1851.*"

At a meeting held a few days afterward constitution and by-laws were adopted, and the organization was completed. Scarcely a single citizen refused to join the association. One of their first acts was no less unique than energetic. A notorious character was arrested for theft by the civil authorities and put under bonds to await his trial. The Vigilance Committee bailed him out, gave him a thorough flogging, and then returned him to the custody of the law.

At San José in October, 1851, two Hispano-Californians, father and son, arrested for cattle-stealing, were tried, convicted, and sentenced by a people's jury to receive twenty-six lashes each. The old man's head was white and his body bent with age; the son was a manly fellow, straight as a forest tree, athletic, in the full vigor of manhood, with a bold front and an unflinching eye. When judgment was pronounced he rose to his feet and begged one boon of his judges. For himself he asked nothing—but that old man, his father: surely, if they were sons themselves, and not bastards, they would let him take the whole punishment, and suffer in the old man's stead. The proposition of the son was considered by the Committee, and a resolution introduced that the sentence of the father should be remitted, and that he should be handed over to the authorities. Nor would the Committee take advantage of the son's proposal to augment his sentence. The trial of the father in court, made with more deliberation and a fuller cognizance of facts, revealed the truth that his sentence had been disproportioned to his crime, and he was released with only a fine of five dollars.

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It was an extremely difficult matter for the native population of California to understand that it was very wrong to steal horses. That is one reason why so severe a penalty was inflicted for this crime. In their early times they had been accustomed to catch and saddle almost any horse running at large. It was the thing to do to return the horse or to leave another in its stead, but the owners of ranchos were not often particular about a horse or two more or less. Said Derrasio Berryessa, when about to be executed by the Vigilance Committee of San José July 21, 1854, for stealing horses, "My countrymen, you must all leave here; it is no longer a fit place for you!"

In the spring of 1850 Mariano Hernandez, a Mexican horse-thief and highwayman, was captured and confined in San José jail. His arrest was made on the suspicion that he had murdered a man named John Foster, who had lived in one of the upper counties, and had robbed him of twenty thousand dollars. A Mr Savage had come to San José for the purpose of having Hernandez taken for trial to the county where the murder had been committed. Savage was a neighbor of Foster, and had deposited money with him, which was lost by the robbery. Before Hernandez could be removed he must be brought before the judge, and while on the way he escaped. Savage was greatly incensed, and openly accused the sheriff and the judge of having accepted money from the prisoner as a bribe to release him. The people talked of hanging the officials. Savage threatened if something was not done he would lead a band of armed Indians against the town. In the mean time Hernandez was pursuing his villainous course in other sections of the country, but at Monterey was again arrested. He was sentenced to be hanged, and narrowly escaped with his life; he was suspended from a tree, but the rope broke, and that circumstance, with the timely intercession of a priest, secured his pardon. However, the

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reprieve served but little purpose, for at Santa Cruz he was seized by the Vigilance Committee for some criminal act, and was hanged by them on the 20th of July, 1852.

On the next night this same Committee in Santa Cruz hanged another Mexican. He was taken from jail, where he was awaiting his trial for horse-stealing. The prisoner made a confession just previous to his execution in which he implicated others of his countrymen. Search was immediately made for them. One was captured—a hardened wretch, who boasted of having killed several Americans. His trial and execution quickly followed his arrest. He exhibited no fear, walking with a firm step to the gallows.

On the 11th of January, 1853, the Vigilance Committee of Santa Cruz ordered that three thieves should receive from twenty to fifty lashes, and be banished the town, and that should they return it would be under penalty of death.

It was neither a profitable nor pleasing position, that of member of the Monterey Vigilance Committee, for when they hanged a villain twenty other villains narrowly watched the hangman, swearing vengeance. More than one member of this association in 1856 died out of his bed. Murder had become so bold, however, that there was no help for it. If we may credit D. R. Ashley, subsequently United States Senator from Nevada, by actual count there had been committed in and round Monterey during three years sixty-three murders, without one judicial execution. Bullets flew from town-houses and solitary thickets. Mail riders were shot so frequently that for once in the history of our country the service went begging.

In the early part of February, 1858, there lay in the jail at Monterey, under sentence of death, a Spaniard named Anastasia, who had been convicted of one murder and had confessed to another. The crime for which he was imprisoned was the killing of an old

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man, whose cabin he had feloniously entered with an Indian. The old man was a Mexican sheep-herder in Chalama Valley, Fresno county, and had in his possession one hundred dollars, for which he was murdered, being shot twelve times and his skull broken. A jury, composed equally of Americans and Mexicans, condemned Anastasi to be hanged on the 12th of February; but two days before that time a document was received by the sheriff from Governor Weller granting a respite from death for several days to one Anastasi Jesus. As José Anastasi was the only person in the Monterey jail under sentence of death, the respite was clearly intended for him; at least such was the conclusion of the sheriff. The under-sheriff, however, incited and sustained by a large number of the most influential inhabitants, took a different view of the matter, arguing that the misnomer in the reprieve was fatal to its legality, and that unless the sentence of death should be executed on José Anastasi on the day fixed he probably would escape punishment altogether. The under-sheriff therefore assumed the responsibility of proceeding with the execution, and Anastasi was duly hanged. Governor Weller was greatly incensed, and when the under-sheriff wrote him on the subject the governor responded in an angry and undignified communication, denouncing the course of the deputy in the most violent terms. The under-sheriff was sustained by the citizens, by whom the whole course of the governor was strongly condemned. They felt that José Anastasi was legally convicted and under sentence of death; he had confessed not only the commission of the murder for which he had been tried, but also another one; there was a question as to the legality of the reprieve, there was none as to the legality or justice of the sentence; and lastly, had the day of execution passed, pursuant to a document that was null and void, there were serious doubts as to whether the prisoner could ever be executed under that con-

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viction, and the blunder might result in turning a desperate criminal loose upon society. This is called the first legal execution in Monterey county under American rule, and in the minds of many there remained the question whether this was legal.

Says the Pajaro *Times* of February 13, 1864:

"The people of Monterey county are in earnest about ridding themselves of the thieves and cutthroats who infest that section of the country. Last week in Natividad the citizens formed themselves into a vigilance committee and tried three Californians—two brothers named Lopez and one man whose name we did not learn. One of the brothers and he of the unknown name were found guilty of various robberies and depredations, and on Monday last were publicly whipped and sent to jail. The elder of the Lopez brothers was adjudged guilty of murder and forthwith hanged. Beside several other murders charged against Lopez, he killed a Chilean some months since for an old saddle and sack of barley. The whole family is said to be of a wicked nature. The father was sentenced to death and hanged some years since in this county."

There were many cases illustrating how the spirit of self-government wavered between vigilance and mobocracy. On the desert border of southern California lived Matthew Riley, who along in the early fifties became quite famous as a leader of men and a manipulator of power. Sometimes the men were not all of the best, and the power—well, while the quality of it was not equal in purity and directness to that engendered by steam or electricity, it was no whit below what is manufactured to-day for our governors and presidents by thick-headed Africans and unwashed Europeans. It is scarcely fair to charge all wrong-doing to the devil, and credit all right-doing to a higher power, because in the so-called special province of the latter, we find poorly done, or left undone, matters of which omnipotence can scarcely be proud.

Matthew Riley was about five feet seven inches in height, compactly built, broad-shouldered, with flesh as solid as lead. He knew how to command men, whether in the direction of business or fighting. To the former he brought a fair education and average ability, which secured him a moderate fortune; as

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auxiliary to the latter he had a score or two of men of active and muscular organisms always at his call, with no end of political and office-seeking backers. Thus it was that in any cañon or at any cross-roads, no less than in court or camp, Mat could hold a Liberty Fair, or play a game of Eternal Justice, on short notice.

By attending closely to his duties and privileges as a favored citizen of a thrice favored republic, as every true man, every intelligent and progressive lover of freedom, is bound to do, he had always on hand ready for immediate use a large store of power, social, political, judicial, ecclesiastical, mechanical, or of whatsoever kind or quality which might at the moment be in demand. Whosoever went wrong Mat or his men would set right; he who persisted in wrong-doing, by Mat or his men was quite certain to have his nose or neck twisted. What was right and what wrong —there was sometimes a question; but not often. What priest, or politician, or merchant is there who fails to find right on the side of his bread that is buttered? Mat was a great judge. He was a judge of men, a judge of morality, a judge of justice. His followers were not all of them so clear-headed, and several times brought themselves and their master into trouble. They would sometimes find themselves at the wrong end of a legal sequence, though as a rule, like the wise and wily ones of the present dispensation, they found law too great and good a thing to be ignored or crushed. So Mat and his men, like any other of the kings who stalk about over this confederation—money kings, piety kings, political kings—used law when it suited their purpose; if it did not they coolly kicked it out of the way—differing in their way of doing it from our present legislators and justice-jugglers in this respect, that whereas these latter are exceedingly sanctimonious in their worship of law, are exceedingly circumspect in their position before the law, taking care always to avoid the risk of prison walls

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in their rascalities, Mat, who made the men that made the laws, could not understand why he should stand on much ceremony with so cheap, unstable, weak, flimsy, and fickle a thing as law. And as for justice, what and where is it, in earth, heaven, or hell?

In due time the business of horse-stealing became so bad that few artists cared to follow it. It was easy enough to gather in stock, but difficult to dispose of it. Mat and his men could smell a horse-thief miles away, so that the most of the unhanged in that vicinity either reformed or moved away. They were very efficient at any kind of detective work, five or six of them being able at any time to accomplish more in bringing criminals to justice, and in executing them, than all the constables, sheriffs, lawyers, judges, and jails in three counties. True, this boomerang of equity and material morality sometimes flew back and killed a man or two, once even striking the chief; but as a rule it was thrown true, and striking the mark fairly brought down its victim without recoil.

It is a fact of which sensible, right-thinking Americans can scarcely be proud, that our most worshipful and highly prized machinery for guarding life and property, for making men and women moral and keeping them so, can so easily be outdone, a hundred-fold, by a few commonplace men of practical ability. These cumbersome contrivances, many of them relics of barbarism or of feudalism, are to a great extent mere machines for defrauding the public, defeating the right, and demoralizing natural and manly sentiments, and all under the name of justice. For the advancement of religion men used to commit the most heinous crimes. For the advancement of education men now gather each year a great fund, and after taking three fourths of it to fill their pockets, the remainder, with much chattering, like learned monkeys, they employ in teaching children to follow in their footsteps. To permit our children to grow up in ignorance, truly is bad; but by daily example, if not indeed by precept,

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to teach them dishonesty, and bring them up to bribery, trickery, and the many phases and colors of modern rascality, is infinitely worse. There are many cities and counties in this republic, where if a Mat Riley and six men were always stationed, ready to seize and hang any lawyer caught in perverting justice, any judge swayed in his duty by fear, favor, or any social or political desires, any legislator or member of a board selling their vote or influence for coin, or any person engaged in the rascalities of current affairs, would be a great and most efficient blessing, a benefaction to society superior to all courts, law-makings, and penitentiaries. In the end, Mat Riley came to grief. It may be he killed too many, or not enough; in any event, were he now living he would have plenty to do.

On Tuesday, the 23d of August, 1859, at midnight, two men were executed in the woods of Santa Bárbara. They were Francisco Badillo, aged eighty, and his son, fourteen years of age. Their horse-thieving achievements were notorious, but the course pursued by the mob was strongly censured. On the following day the coroner and jury proceeded to the spot where the bodies were hanging and received the testimony of Badillo's sons, eleven and thirteen years old. An excited crowd of native Californians had gathered, and threats of vengeance were muttered against the Americans. George Nidever, a crippled youth riding by, was suddenly pointed out by the younger of Badillo's boys as one of the murderers, when the enraged law-abiders stabbed, shot, and clubbed the poor fellow until he lost consciousness. Several persons were arrested for assaulting Nidever, but were acquitted, as were also George and John Nidever, and others arrested on suspicion of the death of Badillo.

The following report was made by the grand jury to the court of sessions September 17, 1859:

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"In the case of the people of the state of California *versus* J. Nidever and others, charged with murder, there were thirty witnesses sought for and obtained in different parts of the county, and all the testimony that could be brought to bear upon the case, either directly or indirectly, was obtained. There were such numbers of contradictions and *alibis* proven as rendered the testimony in favor of the state entirely worthless; consequently there was 'no bill found.' In the cases of F. Sayba, J. Gutieruz, Lugo and R. Zuriba, charged with assaulting and shooting George Nidever, there were 'no bills found.' The positive evidence given in respect to two of those cases by Russell Heath and James L. Ord was positively disputed *in toto* by the evidence of José Dolores Garcia. The undersigned believe the testimony of the first two witnesses to be true; we also believe the testimony of the latter to be false. The persons who a little more than a year since robbed and murdered the Basques on their way up the country would not have been punished but for the people of San Luis Obispo, who summarily hanged them by the necks. Cases of horse and cattle-stealing, almost without number, have within the last five years been brought to the notice of our courts; yet in almost every instance unprincipled petit juries could easily be drummed up who would not hesitate in bringing a verdict of not guilty, though the offence had been so clearly proven that it did not admit of a single doubt. Even those who seek office, with now and then an exception, absolutely humiliate and degrade themselves, either by lavish promises to the corrupt, who hold the influence, or by pandering to a set of ruffians. Our elections are a farce, and an insult to common-sense; scores of hombres, of all grades and colors, are brought in front of the polls, whose intelligence and education would not compare with the slaves of the southern states; yet these same hombres receive sealed votes, either from the hands of the influential or their employés, and without opening them or examining their contents put them in the ballot-box. Since the sitting of this grand jury the foreman has had his life threatened by outside vile ruffians. In conclusion, we propose to allude to the state of society as it here exists in connection with the execution of the laws. In a republican government like ours, our system of jurisprudence is established on the broad supposition that at least the majority of the people are notoriously honest, and always ready to maintain the supremacy and majesty of the law, and to assist the courts in its execution. In most communities such is the case. We deeply regret to be obliged to assert that in this county it is widely different. We are of the unanimous opinion, so far as this county is concerned, that the courts, in consequence of the notorious bad characters that are frequently summoned and impanelled to serve as petit jurors, are entirely powerless in punishing crime. Thieves and villains of every grade have been from time to time upheld, respected, fostered, and pampered by our influential citizens, and if need be, aided and assisted in escaping from merited punishment due to their crimes. Characters similar to those just named have frequently been seen sitting beside the wealthy and influential in their carriages traversing our streets, or mounted on the richly caparisoned steeds of these same persons. The virtuous and the prostitute, the cattle-thief and the influential, have been too often seen mingling together at parties and balls. In fact it is with deep regret that we are com-

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pelled to publish the fact to the world that the ruling population make little or no distinction as to the character of their associates; if there is any preference it is in favor of the vicious. Offences, thefts, and villainies in defiance of the law, of every grade and character, from the horse and cattle-thief to the highway robber and midnight assassin, have dwelt, to our knowledge, for the last five years in our very midst. Whenever those crimes have been perpetrated on the persons of honest, industrious, and good citizens, the tranquillity of the public mind, so far as the ruling population was concerned, would not be disturbed.

"Only three years since, an American by the name of Moore had quietly settled in Montecito, had erected his humble cabin, and had industriously engaged in fencing a field and sowing a crop in order to gain an honorable support. He was basely murdered while asleep by having his throat cut from ear to ear, and left to welter in his gore; yet the tranquillity of the ruling population was not in the least disturbed. Neither they nor their officers appeared to take the least interest in ferreting the perpetrators of the crime and bringing them to justice; and had it not been for private American citizens, who had him buried with their own means, so far as the authorities are concerned he would have been left like a wild beast to rot where he was murdered. One of the perpetrators of that crime has since been hanged, not by the actions of our courts, to which he fled for protection for other crimes, but by the sovereign people of San Luis Obispo. Previous to his execution he confessed to that and a number of other heinous crimes. We could go on from page to page and enumerate the evils under which we suffer; suffice it to say, good, independent, industrious, and honest citizens are not wanted here by the ruling powers. Could they accomplish it, they would drive us from the country, unless we would degrade ourselves by pandering to their wishes, obeying their orders, and affiliating with their ruffians.

"CYRUS MARSHALL,
"*Foreman of Grand Jury.*

"R. Forbush, A. M. Cameron, William Brick, G. Abadie, L. Loomis, Juan Hill, John M. Haskell."

This report was published in the San Francisco *Herald*, as the Santa Bárbara papers refused it a place in their columns. Serious disturbances were constantly occurring, and the law seemed powerless to protect the rights of citizens. The Santa Bárbara *Gazette* says: "Law there was plenty, law-craft enough and to spare, but organization none at all, save a shadowing of that worst of all organizations, suggested by the example of righteous Los Angeles and law-abiding San Francisco, a Vigilance Committee. The sheriffalty was vacant. The mayor had resigned, assigning as

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his motive his incapacity to preserve order. No justice of the peace had qualified. A county judge remained, fully determined to maintain the law; but not a constable was there to execute a warrant. The treasurer and county clerk alone stood over this universal wreck of unfilled office as fitting emblems of a costly system of anarchy." At this juncture General Clark was called upon to bring a small detachment of troops with him to Santa Bárbara, the people urging that the mere appearance of the military would carry sufficient moral suasion without resort to arms. The request was complied with and confidence restored.

In the absence of legal authorities a popular tribunal was organized for the trial of one Sonoreño in San Luis Obispo the 7th of July, 1851. José Castro and W. C. Jones were elected judges, C. Freeman secretary, and W. J. Graves prosecuting attorney. It was agreed that one half the jury should be native Californians and one half Americans. Thus organized the tribunal proceeded to business.

The early days of San Luis Obispo show a busy schedule of crime, and a running sketch of some of the chief episodes of its history will no doubt prove interesting and instructive to the reader:

In the fall of 1863 a band of eight or ten men rode into town and made merry over the fact that they had just murdered a pedler near San Juan and appropriated his goods. They were pursued, one of them killed, several hanged, and the remaining three or four escaped. These were desperate times; not a week passed but that the bodies of murdered men were found by the roadside, and many a cattle-dealer from the upper country met a secret and terrible fate in that bloody land. Early in 1856 a man named George Fearless came down from San Francisco with several thousand dollars and went into the stock business with a New Mexican named Jesus Luna, on a rancho some fifty miles from town. After a few months

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Fearless disappeared, and his Mexican partner said that he had gone to the states. Soon selling out their property on the rancho, Luna moved to New Mexico, and shortly after his departure the body of Fearless was found concealed on the place.

Now read the next incident, then put the two with twenty other like deeds unrecorded, with matters every day growing worse, and then say if vigilance committees are wrong:

Two Frenchmen collected a band of cattle and started north. They hired a native Californian named Frolian as their vaquero; this man and Jack Powers the gambler saw a large sum of money paid to the Frenchmen. On Monday, the 30th of November, a horse-race took place at Santa Margarita, twelve miles from San Luis Obispo. Frolian left the service of the Frenchmen that day, and one Nieves Robles appeared in camp and asked permission to accompany the cattle-drovers on their journey as far as San José. The proposition accepted, that night he pointed them out a place to camp near the mouth of the river Nacimiento, a spot that has been baptized in the blood of murdered men. In the morning some horses were missing from the *caballada*, and the Frenchmen rode out to hunt them. They never returned. Weeks afterward the body of one of them was found, the skull perforated by bullets; the body of the other was never discovered. Jack Powers and two Mexican *confrères*, Linares and Rafael, attended the horse-race on the day before the murder, and that evening disappeared. It was afterward known that, in company with Nieves Robles, they had killed the Frenchmen, taking from one of them the sum of thirty-five hundred dollars. They all returned to San Luis Obispo, when Nieves was arrested and tried, but finally discharged. Nothing was done with the others at that time.

In May, 1857, two Frenchmen, Bortolo Baratié and M. Borel, came down from Oakland to reside on

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the rancho San Juan Capistrano. Madame Baratié accompanied her husband, and they had two Californian servants. One evening eight men came along, representing themselves as horse-runners, and wished to buy food. The Frenchmen generously supplied them without pay, and that night allowed them to sleep in the building with their servants. The next day one of the band, Miguel Blanco by name, came back alone, stating that his partners were running horses, and asked the privilege of unsaddling his horse, which was allowed him. The Frenchmen were engaged in cleaning out a well, and the servants were cutting hay a little distance away, but out of sight. Baratié left his partner and came round to speak to the servants, Blanco remaining by Borel. Baratié soon heard firing from the direction of the well, and Blanco, having shot Borel, came running round as the other murderers rode up, and fired at Baratié, hitting him in the shoulder. Driving Baratié and the servants to the house at the muzzle of the pistol, they forced the Frenchman to disclose the whereabouts of his money, about three thousand dollars, which they immediately divided among the band. Baratié was then shot down before the eyes of his wife, and she herself was carried away to a place of concealment in the mountains, whence she afterward escaped and returned to Oakland. The Californian servants escaped with their lives and gave the alarm. Two of the murderers were soon afterward caught and hanged in San Luis, making a complete confession of their dark deeds. So bold had crime become in San Luis that villains were often heard boasting on the streets of their bloody deeds, using such expressions as: "How the damned scoundrel fought for his life!" or, "Why, he fired three shots from his revolver after we thought him dead!" with reference to some one they had killed. Many of the native Californians of the southern counties were in league with the murderers, and gave them aid and comfort in every way, rendering it almost

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impossible for the ends of justice to be attained. The robbers were completely organized, with their signs, grips, and passwords, and it was only the energetic action of the people, striding over the tangled meshes of the law, that finally broke up the powerful alliance and restored a measure of safety to the persons and property of the public.

In June, José Antonio García, one of the parties concerned in the murder of the Frenchmen near the Nacimiento, was hanged by the citizens of San Luis. He made a confession on the gallows, implicating the gambler Jack Powers in the crime.

Following swiftly upon this event came another, which indicated that the people had at last become aroused. Several of the robbers who had been concerned in the tragedy at San Juan Capistrano, the miscreant Pio Linares at their head, being hard-pressed by the Americans who were pursuing them, took shelter in a dense willow wood on the Osos Rancho, near San Luis Obispo, and were surrounded. The pursuing party attempted to hunt them out, but after having one of their number wounded by a shot from Linares, were forced to desist on account of the approach of night. By the next night over a hundred armed citizens were on the ground, hemming the wood with a cordon of sentries, and the next morning began to beat the brush for the robbers. A battle ensued, in which Pio Linares was killed, and his two Mexican companions, both of whom were participants in the San Juan Capistrano murder, were captured. The citizens had one man killed and two others wounded. The captured Mexicans were openly hanged in San Luis the next day. Considering the reign of terror that had so long existed in that region, and the utter powerlessness of the law to reach the red-handed assassins, these acts of the Vigilance Committee were not only justifiable but eminently worthy of applause.

Nieves Robles was finally apprehended and lodged

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in the jail at San Luis, whence he was quietly taken by the vigilants on the 27th of June 1858 and hanged. He confessed his part in the Nacimiento murder, and his statement was fully corroborative of those made by his accomplices who had preceded him on the gallows.

Soon after these occurrences the Vigilance Committee of San Luis Obispo disbanded, considering its work accomplished.

Among the Los Angeles archives I find the following:

"At a meeting of the citizens of Los Angeles held on the 13th of July 1851 at the mayor's office, to consult the public good by organizing a volunteer police, in accordance with the action of the city council, B. D. Wilson, mayor of the city, was called to the chair and L. Granger appointed secretary. The following is the ordinance passed by the city council:

"First, That Dr Hope be named chief of a body of police composed of the inhabitants of this city who may voluntarily think proper to form it, which chief of police will be governed by the orders of the mayor.

"Second, Dr A. W. Hope, in connection with the mayor and the previous consent of the persons voluntarily joining themselves to said police, will proceed to organize said body, naming the subalterns by the mayor and chief of police.

"Third, The sole object of this police will be to guard the security of the inhabitants and the conservation of the peace in conformity with the laws of the state and the last part of Article I.

"Approved. B. D. Wilson, *Mayor.*"

Then follow the names enrolled. At a subsequent meeting officers were chosen and the organization waited orders from the chief of police. This might be called a vigilance committee organized under the auspices of the law; for we may be sure that such a body would never let law stand greatly in their way.

In July 1852 two young Americans came by steamer from San Francisco to San Diego, intending to purchase stock. One was named McCoy and the other Ludwig. They had started on horseback for Los Angeles, when they were overtaken by Doroteo Zavaleta and Jesus Rivas, Mexicans, who entered into conversation with them in regard to trading horses.

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Proceeding on their journey, the Mexicans gained the confidence of their companions, providing out of their supply meat for the whole party, and apparently entertaining the kindliest feeling toward them. But the Mexicans' only desire was to murder and plunder, and one night they accomplished their purpose. Rivas asked McCoy for his knife, with which he cut two heavy sticks; then, encamped on the banks of the San Gabriel, the Americans made preparations for sleep. Spreading a blanket upon the ground, they invited the Mexicans to lie down beside them. Zavaleta devoutly replied that he must first say his prayers. About two hours later the Mexicans approached the sleeping men and each simultaneously struck one on the head with a club, and beat them until dead. They secured three hundred dollars, and their pistols, knives, horses, and saddles. The bodies were left unburied. Zavaleta and Rivas were subsequently arrested at Santa Bárbara, with a companion, Carmillo, for horse-thieving. Afterward suspicions of the truth were excited, and an examination was made by a committee of the people at Los Angeles. Carmillo turned state-evidence and repeated what Rivas had told him of the murder of the Americans, and satisfactorily proved his own innocence. Zavaleta was next examined, and after four or five hours of questioning and false swearing, volunteered a full confession of the truth. His testimony was afterward substantiated by his taking a party of men to the scene of the murder, and discovering to them the bodies. Rivas' contradictory statements were also followed by confession. A people's meeting was held at the court-house at four o'clock on Friday afternoon, August 6th, to consider what should be done. They appointed a jury of twelve men to hear and act upon the testimony that had been obtained by the previous committee, which was read to them in English and Spanish. The jury retired for a few minutes and returned with a verdict of guilty of murder in the first degree. It was then

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voted unanimously that the accused be hanged the following morning at eight o'clock. It was also decided that Carmillo should be handed over to the civil authorities. The sentence passed upon the condemned was executed at the appointed hour. The gallows was erected upon the summit of Fort Hill, where the men were conducted, betraying no emotion of fear or contrition. After the priest had given them absolution, the prisoners addressed the people. Their remarks were chiefly angry accusations of each other. Rivas advised any who contemplated such crimes as his, either to have no associates or to select brave men, and not cowards who would betray them. At the conclusion of their remarks the final preparations were made, and in fifteen minutes their lifeless bodies were left to the care of their friends. Zavaleta was respectably connected, and was in the prime of life. Rivas was born in Sonora, and was but twenty years of age.

Major-general J. H. Bean, who had served both as alcalde and mayor of San Diego, and who was greatly respected and beloved by the entire community, was assassinated late one evening in November 1852 as he was returning home from his store in San Gabriel. He was riding horseback, when he was suddenly attacked by two men who were awaiting his approach. One sprang forward, and seizing the bridle jerked the horse back upon his haunches, while the other pulled the general from the saddle and threw him violently upon the ground. Bean was a powerful man, and though his assailant was upon him, he rose to his feet and attempted to defend himself with his knife; but he was overpowered by superior dexterity, and was stabbed several times by the ruffian. When he lay dead upon the ground he was shot by the wretch, who rejoiced that he had destroyed the life of one whose influence and wealth had been used in attempts to exterminate the class he represented.

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As soon as the death of General Bean became known, renewed efforts were made to rid the neighborhood of the highwaymen infesting it. A band of desperadoes was suspected, and determined efforts made to arrest the leaders and break up the organization. About this time the Vigilance Committee of Los Angeles caused the arrest of several Mexicans belonging to Salomon Pico's band, among others one Reyes Feliz, a young fellow fifteen or sixteen years of age. He was convicted and executed on account of his connection with the band. Feliz made a confession of his crimes, including the murdering of a Mexican, but professed ignorance of General Bean's death, or of any person accessory to it. Upon the testimony of one Ana Benites, a member of Joaquin Murieta's party, who was also arrested, the death-blow of General Bean was charged to Cipriano Sandoval. Ana asserted that Cipriano confessed the murder to her immediately after its occurrence, and she detailed full particulars. Her testimony also implicated Benito Lopez, and both were tried, pronounced guilty, and hanged by the people. Lopez confessed to several murders, and disclosed the spot where the bodies of his victims were concealed. Cipriano Sandoval made a few remarks just previous to his death, protesting to the last his innocence of the murder of General Bean. Both Feliz and Lopez seemed to feel that they had been betrayed by Ana Benites, and advised their companions not to put their faith in women. At the time of the execution of Lopez and Sandoval, another Sonoreño was also hanged. Early that Sunday morning, December 12th, while walking with a companion on the street, he had stabbed and instantly killed him. He was soon afterward arrested, tried at once by the people, and executed with the other criminals at three o'clock in the afternoon. As was stated, Cipriano Sandoval was hanged on the charge of the murder of General Bean. Five years later the sad revelation was made that he was not the murderer.

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The real criminal, shielded by rich and influential friends, had died in his own home, but harassed by the terrible secret, he had revealed the truth on his death-bed, and the martyred Sandoval was then known in his true character, as a simple, ignorant, and obscure shoemaker, who had worked soberly and industriously at his trade in San Gabriel. Though the movers in this execution were men of sound heads and good hearts, this fatal mistake shows the necessity of the utmost caution in the use of power.

Insecurity of life, and immorality, prevailed to an alarming extent in Los Angeles in the year 1854. The mission natives had retrograded since left to themselves, and continually gambled, drank, and quarrelled with each other; so that in the morning when natives were found dead in the streets the matter was not considered of sufficient importance to require investigation. There were other classes scarcely superior in many respects to the natives. Gambling disputes were of nightly occurrence, and pistol-shots a natural consequence. A resident of Los Angeles for a short time, says that while he was there almost every night one murder at least was committed, and often two or three, and that the ordinary morning salutation was, "Well, how many persons were killed last night?" "Only four; three Indians and one Mexican," perhaps being the reply. "We have received a letter from a citizen of Los Angeles," says the San Francisco *Herald* in November of this year, "declaring that it is unsafe to go out after dark; and some idea may be formed of the reign of terror that prevails, from the fact that he requests us to conceal his name, as his temerity in even complaining of these things might cause him to be victimized. If the authorities are so inert as to permit murderers and outlaws to run riot, why do not the people of Los Angeles establish a vigilance committee and make some examples? San Francisco was once quite as

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unsafe as Los Angeles, and it would probably be so still but for the decisive measures taken by its citizens. We see no other cure for the dreadful condition of Los Angeles than the organization of an energetic vigilance committee. One thing is certain: nothing could be worse than its present plight, and it would therefore be safe to make the experiment." The Los Angeles *Star* of the 30th of November admits the truth of the statement as to the condition of the city, but denies the necessity of a vigilance committee. Having confidence in their officers, nothing was required of the people, unless it were to help the officials—which strikes an impartial observer as somewhat absurd; for why should anarchy and riot reign in the midst of efficient officers and good government?

There was one David Brown, who on the 13th of October, without provocation, killed a companion named Clifford. He was arrested, legally tried, and sentenced to be hanged with one Alvitre. The people during the trial organized a meeting, determined themselves to try the case of Brown, but were dissuaded by the mayor, Stephen C. Foster, who was anxious to give the courts one more chance for speedy administration of the law, promising that, in case the prisoner escaped by any quibble or trick, he would resign his office at once and join the people in the summary punishment of Brown. The citizens were satisfied with the action of the court, and awaited the execution of the law. But on Wednesday the 10th of January 1855, an order from Judge Murray of the supreme court was received, staying the execution of Brown. On Thursday evening an immense gathering assembled at the Montgomery Saloon, with Colonel McClanahan in the chair. Several speeches were made, among others one by Mayor Foster, in which he unequivocally declared himself in favor of hanging Brown and Alvitre together. The following

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from the *Southern Californian* is an extract from a lengthy article read to the meeting and received with enthusiastic applause:

"Citizens of Los Angeles! 'Tis for you to say whether the gross and outrageous partiality shall be allowed; whether you will permit so flagrant and glaring an evidence of the omnipotence of birth and condition to operate in widening still further the breach that already exists between our native and foreign population, so prolific of future disaster to the community."

In speaking of the trial of Brown, the editor continues:

"Our own court has done its duty manfully, unshaken by and oblivious to all influences save those of law and justice. The trials have progressed and ended, and richly merited punishment awarded; and our citizens, gladdened beyond measure at this evidence of a new order of things, were looking forward to a future fraught with hope and better things."

The next afternoon, Friday, the 12th of January, Alvitre, accompanied by Sheriff Barton with a large armed force, was led into the jail-yard to the gallows, where at three o'clock he was executed, though the poor fellow fell to the ground from the noose untying before death ensued, and was obliged to have the rope readjusted and to be again suspended. Thousands of people witnessed the execution, and there was serious apprehension that resistance would be made to the sheriff, who refused to deliver Brown. The cannon had been spiked on the previous night and every precautionary effect taken by the authorities. After the execution of Alvitre the scaffold was taken down and the armed force disbanded. The crowd then gathered outside the jail, and addresses were made urging the seizure and execution of Brown. Mayor Foster resigned his office, and incited the people to proceed. Captrin Hunter then asked all in favor of the measure to follow him. Led by Hunter, Foster, and McClanahan, the crowd moved on into the jail-yard and to the cell of Brown, where with axes the door was battered down and the prisoner brought out. Another murderer, condemned to be hanged in February, was in the same cell, but he was left unharmed. Brown was

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conducted to a large gate-way opposite the court-house, where a rope was suspended from the cross-beam, with a chair placed underneath. While Brown stood on this somewhat novel platform having the rope adjusted, he kindly informed the crowd that they did not know how to hang a man, and requested they should permit him to show them. His cool indifference was maintained to the last, when he kicked the chair from beneath his feet and was quickly strangled. A few days later Stephen C. Foster was reëlected by a large vote to the position of mayor, which he had resigned to further, as he thought, the ends of justice.

At Los Angeles a great excitement arose from the rash shooting of Antonio Ruiz on the 19th of July 1856 by a deputy constable named Jenkins, who met with some opposition in the service of a writ of execution for the sale of Ruiz's property. Jenkins surrendered himself and was admitted to bail. Next day Ruiz died, and the Spanish population were indignant that Jenkins, whom they regarded as a murderer—for Ruiz was a quiet, well behaved man, and had not given the officer sufficient provocation to justify him in the killing—should be at large. On application by the district attorney to Judge Hayes, Jenkins was incarcerated, but the people had by this time become so excited that they threatened the jail.

Ruiz's funeral was the largest that had ever taken place in Los Angeles. After the services were concluded, the immense crowd convened near the grave was addressed by a Frenchman and others, who threatened vengeance on the Americans. Their threats were of such a character that the citizens were notified and active preparations made for self-defence. The following extract from an affidavit, subsequently made by Judge William G. Dryden, shows clearly what apprehensions were entertained: "About four o'clock on Tuesday, July 22d, a Californian came to my residence in the city of Los Angeles and told

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me he had just learned that on that Tuesday night after eight o'clock an attack might be expected in the city by the Sonorians, in connection with the French and some Dutch; that they were about six hundred strong, and that if I wished to save my life I had better take my horse and conceal myself on some rancho; that they had just attempted to take his horse, but desisted when he told them it was very tired, being just from a rancho. This Californian said that the object of the attack was to destroy all the Americans; he said nothing about the attack on the jail. He told me that he made this communication because he felt toward me like a brother. For four or five nights I could hear the Mexicans riding about the streets singing their *refranes*, the burden of which was of war, repeating the word *Americano;* could frequently also hear the word *venganza.*"

Immediately upon receiving the above information from the Californian, Judge Dryden called on Judge Hayes, and together they visited a committee representing the assemblage at the cemetery. The judges, accompanied by this committee, went to the jail, which they found surrounded by Mexicans. The sheriff's and the judges' promises quieted the people, and they dispersed. On the following morning, Jenkins was brought before Judge Hayes for preliminary examination. In writing of this affair the judge says: "Thirty men armed with muskets insisted upon guarding the court-house. Thus I had to sit on this occasion with soldiers on the outside and this same committee occupying the jury-box, to see, as I understood, that the judge did justice. All other persons were excluded. The judge and prisoner, his attorney and witnesses, one feature of the picture; soldiers on the left, a committee, to all intents and purposes, on the right." That evening after the formalities were concluded, judges Hayes and Dryden attempted to investigate matters, visiting Mexicans for this purpose, but no information could be obtained. They

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began to think the alarm was without foundation, when the bright moonlight suddenly discovered the rendezvous, on the hill, of a large force. Only waiting long enough to secure for his family a place of safety, where already many families had congregated, Judge Hayes joined the citizens who had armed and organized. All through the night the citizens were on the alert; horsemen were galloping up and down the streets, carrying messages back and forth from one section of the town to another. They would not be the aggressors, but were prepared to be merciless in their retribution if once attacked. About midnight, while Marshal Getman, with a company of footmen, was riding near the hill, where some two or three hundred of the belligerents were assembled, he was attacked and obliged to retreat. Afterward four Mexicans shot at him, and he fell; then they rode by, firing at him as he lay upon the ground. The attack having been made, the military were ordered to the plaza, but, inefficiently organized, they were some time in reaching the spot. The insurgents in the mean time disbanded; their patriotic ardor and their vindictive purposes seemed to have been sunk into oblivion from excessive drink, and there was no further demonstration made by them that night.

The citizens on the following day received reënforcements from El Monte, and strong military power was secured. There was a feverish excitement for some days, but with the militia ready for action, if needed, the fears of the people at last subsided.

The examination of Jenkins by Judge Hayes resulted in his being sent to the grand jury for trial, with bail fixed at three thousand dollars. At his final trial he was exonerated from blame and released.

For many months Los Angeles County was victimized by organized banditti, probably one hundred in number. They threatened the extermination of the Americans, and a war of races seemed about to be

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inaugurated. Many ineffectual attempts had been made for the arrest of the leaders of the gang, which was at last accomplished by the sacrifice of some of the lives of Los Angeles' best citizens. In January 1857 one Garnet Hardy started for San Juan with a fine team of four American horses. He reached his destination in safety, but was told that the banditti were in that vicinity and were more reckless than ever, and that he could not return alive. Hardy sent this information to his brother in Los Angeles, whereupon a party was organized by Sheriff J. R. Barton to start in pursuit of their much coveted prey. William H. Little, Charles K. Baker, Charles F. Daley, Frank Alexander, and Alfred Hardy volunteered their services, and an unarmed Frenchman acted as guide. In the mean time the banditti were committing robberies and murders in a most defiant manner. Several instances might be given, but one will suffice: They entered the house and store of George Flughardt, where they at once brutally murdered the proprietor, and then, while securing their plunder, ordered Flughardt's assistant to serve them a good supper, which they ate with a relish while the body of their hapless victim lay outstretched before them.

On Friday morning the 23d of January 1857, the sheriff and his little force arrived at Sepúlveda's rancho, where the Frenchman had been employed many years as vaquero. From the Mexicans he learned that fifty of the banditti were at that time among the mountains, and that an attack upon them would be sure death to the Americans. Nothing daunted they dashed on, for they were close upon their prey, whose numbers they thought were undoubtedly exaggerated. Having advanced about twelve miles, at a spur of the San Joaquin Rancho Mountains a man was seen galloping rapidly away. Little and Baker rode forward to keep him in sight, when a band of twenty men rushed out from between the hills and fired upon

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and killed them. Barton and the others rode quickly forward, but were at once surrounded. The four charged valiantly upon the robbers, whose overwhelming numbers soon ended all resistance, not, however, until three of the banditti had fallen. Hardy and Alexander alone escaped; they recognized their danger, and owing to the superior fleetness of their horses eluded pursuit.

Information of the disaster was at once conveyed to El Monte and Los Angeles. On the following day the bodies of the four men were found. They had evidently been fired upon after death. Their watches were gone and all their pockets empty.

. Sheriff Barton was one of the bravest and most conscientious of Los Angeles' officials. His life had been endangered many times, but his duty was never neglected on account of personal danger. Three years previous, when Brown was in his custody, he valiantly refused to deliver him to the people, though from his will, discovered after his death, it was seen by the date, January 11, 1854, the night previous to the execution of Alvitre, that he realized that his life was jeopardized. Barton and his associates were eulogized by the local press as among the noblest and most respected of their fellow-citizens.

Deliberate action was taken for the arrest of the ruffians. It was determined that a large company should be formed, and, divided into detachments, should attack the robbers in their mountain fastnesses. One division was composed of El Monte men, twenty-six in number, commanded by Bethel Coopwood; another was of native Californians under command of Andrés Pico, who, starting from Los Angeles with nineteen men, was reënforced at Pio Pico's rancho and elsewhere, so that he had a company of fifty men in all. He also secured the valuable services of forty-five natives, with their captain, Manuelito, by whose aid the mountain passes were effectually guarded. The third company was under command

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of James Thompson, and numbered originally twenty-seven men; likewise Thompson received the coöperation of United States troops from Fort Tejon, which he stationed most advantageously at San Fernando Pass, Simi Pass, Scorpion Rancho, and on the main Santa Bárbara road.

The first step taken by Andrés Pico was to send native spies into the mountains to discover the hiding-places of the robbers. Acting in concert with El Monte men, their force numbered over one hundred. The spies returned and reported the camp situated at the head of the Cañada de Santiago, and that if an assault could at once be made the whole band would be captured. It being a dark night, they were obliged to wait until early morning, when as they were making an advance they saw Juan Flores watching their movements from an overhanging rock. He was beyond the reach of attack, and proceeded on farther and higher with his men, of whom all but two were on horseback. The mountains in which the Mexicans had taken refuge were almost inaccessible even on foot, and while the Americans were following, they were eluding pursuit by most reckless daring. Juan Flores, Jesus Espinosa, and Leonardo Lopez, on mounted horses, slid down a precipice to a kind of projecting ledge fifty feet below, where, abandoning their animals, by the aid of brush growing upon an almost perpendicular wall, they descended five hundred feet. Then escaping into an adjacent mountain, they continued their course through dense chaparral. Francisco Ardillero and Juan Silvas, afraid to undertake the desperate venture of their leaders, were captured by the guards.

The trail of Flores and his companions was discovered. Seeing that they were pursued, they concealed themselves in a cave in the Cañada, but overpowered by numbers they were at last captured on Sunday, February 1st, and taken to the rancho of Teodocio Yorba, six miles distant.

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The glad news of their capture was quickly followed by the exasperating intelligence of their escape. It seems that, though bound and under guard, they slipped away in the darkness of midnight, and notwithstanding their flight was immediately discovered they were once again free men.

The disposition of Thompson's party has already been mentioned. On the following Tuesday, February 3d, a Mexican searching for water was suddenly accosted at Simi Pass by two soldiers, who with levelled guns ordered him to dismount, which he at once did. His horse was a miserable mustang, and the man unarmed. In reply to questions he gave his name as Sanchez, from San Fernando mission, and said that he was hunting horses. Upon being taken into camp he was recognized as the redoubtable Juan Flores. His companions escaped for the time, but retribution eventually overtook most of the band. Flores was wounded in the right arm by his own gun, which exploded when leaping over the precipice. Mr Thompson brought his prisoner to the jail at Los Angeles, attending him, at his own request, to his cell. The sight of the assembled people seemed to destroy his self-possession, which was regained, however, when he found himself in the hands of the law.

At the time of Flores' escape from the guard on Sunday night, Andrés Pico became alarmed for the safety of his prisoners, Silvas and Ardillero, and determined upon their immediate execution. They were hanged about twenty miles from the place of their capture. Many hardships were endured by the volunteer corps in their hazardous undertaking. They were eleven days searching the country for the fugitives. Fifty-two men were captured and lodged in the Los Angeles jail, and these once formidable banditti, at last rendered powerless, were disbanded. All of those arrested were tried, but little could be proved against them, and the larger part of the prisoners were discharged for want of evidence. The most

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prominent among the criminals executed was Juan Flores. After a week's imprisonment the people assembled to decide his fate. It was proposed that he should be immediately executed, to which suggestion the crowd gave its unqualified approbation. Meanwhile several persons mounted a platform and harangued the people, advising them to execute at the same time three Mexicans, two of whom had robbed a horseman in the Tejon, the third having attempted his assassination. This proposition was subjected to vote, resulting in a small majority in favor of leaving them to the disposition of the courts.

The people now directed their way to the prison, where Flores awaited his fate. He was a young man of prepossessing appearance, and but twenty-two years of age. Dressed in black coat, light vest, and white pants, and with aspect subdued, there was nothing to indicate the formidable desperado of a fortnight ago. He acknowledged his blood-guiltiness, but said that Pancho Daniel was the leader of the gang rather than he. Two priests accompanied the prisoner to the scaffold, which was erected on the hill, a quarter of a mile distant, where an immense crowd had congregated. Companies of Monte men, Californians and Frenchmen, mounted and on foot, were prepared to enforce order if necessary. Flores preserved a calm demeanor to the last; he himself adjusted the rope, which unfortunately was badly done, causing him much suffering.

On the 2d of February a young fellow of but eighteen, Jesus Espinosa, was captured and executed at Santa Bárbara. He was one of Flores' confederates, escaping pursuit as before described. He freely confessed to Father Serrano his guilt.

Another of the gang, one Berryesa, was also hanged a day or two later by the people. He had been executed, as was supposed, in Santa Clara County, and his body delivered to his friends, who, however, had

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effected his resuscitation. Since then he had committed other murders. The marks of the rope about his neck were plainly visible at the time of his final execution.

On the 29th of January, Miguel Soto and others attacked Cyrus Sanford at San Gabriel mission. Sanford returned the fire, shooting Soto in the thigh. Soto then took refuge in the marsh near by, covering his body with weeds and mud. Several citizens now came to Sanford's assistance, and setting fire to the weeds soon exposed Soto to view. He was at once shot. His companions were subsequently arrested. They were named Juan Valenzuela, Pedro Lopez, and Diego Navarra. These banditti were among the first on whom fell vengeance for Sheriff Barton's death. They were led out to be hanged, but the rope proving too short they were shot.

The citizens of Los Angeles were no less surprised than delighted to see the carcass of the notorious bandit Pancho Daniel hanging in the gate-way of the jail-yard on the morning of the 30th of November 1858. By his band four of Sheriff Barton's *posse*, in undertaking their capture, had been killed nearly two years before, as already described. A reward of twenty-five hundred dollars had been offered by Governor Johnson for his arrest, and fifteen hundred dollars additional by the citizens. On the 19th of January 1858 he was captured by the sheriff, who found him in a hay-stack near San José. After his arrest part of the time he was confined in prison and part of the time at large on bail; he had undergone three attempted trials in the courts, and the last move was a change of venue to Santa Bárbara; in other words, the law had concluded to let the robber loose.

The patience of the people was exhausted. It was simply infamous, this prostitution of the law by its ministers for the subservience of their own selfish

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ends. A hundred dwellings might burn, a hundred travellers might be stopped upon the highway, so that the pettifogger secured his fee and the judge his salary. Of the greatest advantage to thieves was such administration of law: better far for them than if there had been no law. For if no law against stealing existed all the world would turn thieves, and there would be no one left to steal from. As it is, all the robber must needs do is to steal enough, then divide the plunder with his attorney, and he is free. The exactions of the law, so far as he is concerned, are only a protective tariff which secures him against ruinous opposition in his business.

The people of Los Angeles concluded that the farce had lasted about long enough; so one night about two hundred and twenty of them met and resolved that before the sun rose again the Pancho Daniel venue would be changed to a point farther away than Santa Bárbara.

Luckily the sheriff was absent hunting Andrés Fontes, one of Daniel's band, who had been seen lurking in that vicinity. Attention generally was attracted in other directions. There was Banning's new steam yacht from San Francisco, and quite a concourse of people, accompanied by the brass band, had gone to San Pedro to celebrate its arrival. An emigrant train had just come in. Then there were many strangers in town on their way to and from the Gila mines, whose conversation drew attention toward that quarter.

Part of the two hundred and twenty thought they should enjoy sleeping in a corral near the jail; so they tried it. The others, fascinated by the charms of an early semi-tropical morning, rose before the break of day and strolled toward the jail, common attractions seemingly lying in that direction. But just before reaching the spot whither they tended, singularly enough they all disappeared, vanished into thin air; so that when the old methodical jailer just at dawn, as was his custom, appeared with his basket on the

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way to market, not a soul was to be seen. Before he had taken twenty steps, however, from the gate which he had just carefully locked, many were to be seen. He thought he saw a thousand, but there were only two hundred and twenty.

The old jailer at once permitted himself to be overpowered by numbers, and the key to be gently wrested from him by the courteous though resolute citizens. The law loves verbiage, and this limb of it wished the outrage to be consummated in every particular, though with whatsoever degree of gentleness and affability the outragers should please. The two hundred and twenty, with the key in their hand and the jailer their prisoner, had but to finish their work, which they did so quietly as not to disturb the morning sleep of any in Los Angeles. Commenting upon another case, the Los Angeles *Star* of October 19, 1861, says:

"We have ever been, and still are opposed to mob law; but if ever an occasion can arise when the righteous indignation of a people will prompt them to the instant punishment of an enormity whose hellish atrocity appalls the stoutest heart and shocks the moral sensibilities of the most obdurate or the most obtuse, the present is that occasion. Here is the story: A young man, a Californian named Francisco Cota, living with his mother on Spring street, was observed sharpening a knife, and in reply to a question as to its intended use, he said he wanted it to cut up meat with. On the following day, Thursday, he entered the grocery store of Lorenzo Leck, and gave an order to Mrs Leck, who was alone at the time, her husband and his clerk being away for the day. As she turned to obtain the goods, Cota stepped up and struck her on the neck with his knife, almost severing the head from the body. Then stabbing her again two or three times, he fled, covered with her blood. Some few minutes elapsed before the murder was discovered, although perpetrated in the middle of the forenoon and in a populous neighborhood. The alarm was given by a little daughter of Mrs Leck, but five years of age, who ran into a neighbor's house, frightened and crying, with her baby-brother clinging in terror to her hand. The child said her mamma was on the floor with her head cut off. As soon as the dreadful truth became known thorough search was made for the murderer. He was found in a house near the mili tary camp, under a bed; his knife was discovered, concealed between the mattresses, and his bloody clothing marked his guilt. He was placed in a wagon and conveyed to the jail, the greatest difficulty being experienced in preventing his seizure by the people. A public meeting was held in the afternoon, handbills having been issued asking the citizens to meet at the Lafayette Hotel at three o'clock. A committee, appointed for the purpose,

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waited upon the authorities, who promised an immediate examination. The prisoner was at once brought before Justice Peterson, who, allowing him until ten o'clock the next morning to procure counsel, ordered his removal to jail. As the officers with the prisoner were emerging from the court-room, they were surrounded and seized by a crowd, and hurried off to Alameda street, meeting with some resistance on the way from citizens who undertook to rescue the prisoner, repeatedly cutting the rope with which he was bound. Their efforts were unavailing, as the lifeless body of Francisco Cota, suspended from the cross-bar of a gate-way, soon attested. No reason could be assigned for the murder, perpetrated coldly and with premeditation, upon a woman who had never injured or even provoked him, to any one's knowledge."

John Rains was a prominent resident of Chino, San Bernardino County. He was estimated to be worth two hundred thousand dollars, and owned the Comongo Rancho. On the 17th of November 1862, as he was travelling alone and unarmed, he encountered several men, one of whom inquired where he was going. Rains replied, "To town." "I think not; we've got you now!" was the rejoinder, and immediately he was fired upon by the assassins, who jerked him from his horse by one arm. As he was still able to make resistance, they lassoed him and dragged him across the road into the bushes, where his body was afterward found, bearing marks of most brutal treatment, his clothing torn off, and one boot lost in the struggle. The murder was committed for the sake of plunder.

Upon suspicion of participation in this crime, Manuel Ceredel was arrested. Taken ill with small-pox, and thinking himself about to die, Ceredel disclosed all the particulars of the conspiracy against Rains, in consequence of which several parties started in pursuit of his confederates, arresting five or six, who were identified by Ceredel. Recovering somewhat unexpectedly, Ceredel was tried and sentenced to ten years in the state-prison, a decree that did not satisfy the people. While in the hands of the sheriff, on board the steamboat *Cricket, en route* for San Quentin, the prisoner was seized by the Vigilance Committee of Los Angeles and hanged to the yard-arm. After remaining there for about twenty minutes, the body was

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taken down, some stones were tied to the feet, and it was thrown overboard. Between betrayed comrades, small-pox, state-prison, and vigilance, further residence on this planet seemed for Ceredel impossible.

On the 5th of February 1864 Santiago Sanchez was hanged for the murder of Manuel Gonzalez. He admitted his guilt, but protested that his arrest and execution were to gratify the spite of Americans who suspected him of the murder of John Rains, a charge of which he was innocent. In June 1864 José Ramon Carrillo, while riding with a Californian on the highway near the stage station Cucamongo, was shot by a man in ambush, who escaped without having been seen. The cause of the cowardly assassination was attributed to the suspicion that had always been entertained that he was accessory to the murder of John Rains in November 1862. Although he had twice surrendered himself to the authorities for trial, his examination and release did not remove the feeling entertained by the friends of Rains, and Carrillo had felt his life endangered ever afterward. His assassin was never known.

On the 15th of November 1863 an affray occurred on the streets of Los Angeles, when officer Hester, in endeavoring to make an arrest, was brutally beaten by a noted highwayman, Boston Damewood, who was assisted by his allies. The next morning the sheriff with his *posse* arrested five desperate characters, but in doing so was fired upon by their friends. In the fight that ensued one of the ruffians was killed and another wounded. The names of the prisoners were Boston Damewood, José Olivas, Chase, Wood, and Ibarra. Each had a history of crime. Damewood, the most notorious, was at one time on the police force in Los Angeles. Leaving the profession of detecting crime for the more alluring one of committing it, he proceeded to Colorado and there murdered a miner, from whom he obtained a large sum of money.

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At the time of his arrest a committee from La Paz was appointed to bring him to their territory, where his crime could easily be proved. The second in order of vice was Olivas, undoubtedly the murderer of one John Sylvester at Tejon several years before. He was tried at the time, and though the circumstantial evidence against him was of the strongest character, he was acquitted. His subsequent career stamped him an unconscionable villain. The third, named Chase, was a notorious horse-thief, whose arrest had been long predetermined. Wood and Ibarra were highwaymen recently released from prison.

Judge Hayes received intimation that the people had threatened to take the prisoners from the jail and execute them. Accordingly he issued a call for additional aid from the local and military authorities. Before his request could be complied with the jail was surrounded on the 21st of November by two hundred armed citizens, who forced the iron doors and seized the five prisoners above mentioned. Leading them to the corridor in front of the old court-house, over the beams of which ropes had been placed, they hanged them all.

John Sanford, a prominent citizen of Los Angeles County, while riding in a buggy to his sheep-ranch on the 6th of December 1863, overtook two pedestrians, one of whom, Charles Wilkins, had been employed for several months in the vicinity of Fort Tejon as sheep-herder. Sanford spoke to Wilkins, and engaged his services on the spot; taking him into his buggy, he proceeded on his journey. After riding a few miles Sanford stepped from the buggy, leaving his loaded pistol lying on the seat. Wilkins picked up the weapon, seemingly suggestive of unpremeditated crime, and while the owner's back was turned shot him dead. Then rifling his pockets, he mounted one of the horses and rode off. A week after Wilkins was captured at Santa Bárbara and brought to Los An-

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geles where he was legally tried. He was indicted before a special grand jury; and while being brought into court for trial before Judge Hayes, a brother of Sanford attempted to shoot him. Assassination failing, Wilkins pleaded guilty, and at the conclusion of the trial, in which he was convicted of murder in the first degree, the court-house was ordered cleared, and the prisoner remanded to jail to receive his sentence the next morning. The people, apprehensive of his possible escape, made a rush into the court-house, and taking the prisoner into their custody, carried him to Banning's corral, where they hanged him at a gateway. This was the seventh man within a month who had been executed by the Vigilance Committee of Los Angeles. The confession made by Wilkins soon after his arrest gives indubitable proof of his diabolical character. He said that he killed Sanford, thinking he might have some money; he did not know that he had any, but took the chances, and secured only twenty dollars. In reply to the question if his conscience troubled him, he said, "No; I have killed eight other men, and think no more of killing a man than a dog." He stated that he was an Englishman, and that his parents were Mormons, living at Salt Lake. He was but seventeen years of age when he committed his first murder. He was implicated in the Mountain Meadows massacre, in which he obtained several thousand dollars. Afterward he killed one Blackburn, getting his money and mules. Wilkins was a noted horse-thief. He stated that he and two companions were pursued by a party from Los Angeles and San Bernardino two years before, who followed them through Cañon Pass, overtook them, and recovered forty horses. His companions were captured and sent to the state-prison, but Wilkins escaped to the mountains, and then went in pursuit of further prey. A series of crimes resulted in his arrest at San Luis Obispo, and subsequent confinement in the state-prison. He was the leader of sev-

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eral in breaking from the prison, and helped to hold Lieutenant-governor Chellis before the guns to prevent being fired upon by the guard. He was near Yreka in 1862, with a Mexican who had escaped from prison with him, when they met two men, one of whom was a drover named Carr. These men they proposed to kill and rob. Wilkins said he would shoot Carr, whom they supposed carried the most money, for, he boasted, "I never miss my man." The Mexican bungled his job badly, shooting four or five times and then permitting the man to escape. Nevertheless they obtained three thousand dollars from the body of Carr, and evaded detection.

About six weeks before his final arrest Wilkins was at the Bella Union Hotel in Los Angeles, where he stole a revolver and a knife, which he gave to a young man named Woods and told him to go out on the road and earn his living with them rather than hang about the dance-houses doing nothing. Woods went, but his career was a short one; for he, with an accomplice, Ibarra, was arrested by the Vigilance Committee and executed with three others, as before mentioned.

While Michael Lachenai lay in prison for the murder of Jacob Bell and other villainies which he was known to have committed, the Vigilance Committee of Los Angeles assembled at Sterne Hall to the number of three hundred. This was the morning of the 17th of December 1870. It did not take them long to agree unanimously that Lachenai should be hanged, and that immediately. At eleven o'clock the committee proceeded in three divisions to the jail. On their way, as they marched through the streets, they were joined by about a thousand citizens, who encouraged them by their unqualified approbation. A half hour was consumed in battering down the jail-doors. Then entering the cell of Lachenai, they threw a rope round his neck and led him to a place two squares distant, where they hanged him. He was pre-

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viously allowed to make a few remarks, when he confessed his guilt, but expressed no contrition. The sheriff and his officers made all possible resistance, but could not obtain the coöperation of any of the citizens, as all were in sympathy with the Vigilance Committee. This was the first important action taken by a newly organized Vigilance Committee, which was formed that month, with Signouret as president. Though at so late a date, when justice had been administered in their courts for a quarter of a century, it was composed of over five hundred of the best and most influential citizens in the place. In a card which they published they defined their position and purpose in the following terms:

"Our object in thus associating together is not to inaugurate mob law, as we most sincerely regret the necessity that compelled the organization. We do, however, now that the society has been organized, intend to protect the life and property of innocent persons to the best of our ability; and whenever, in our judgment, after mature deliberation and without haste, any assassin has been set free where the evidence should have convicted him, then, and not till then, shall we meddle with the course of the law. We are not actuated by any blood-thirsty motives. Our actions are based upon the principles of humanity and justice, and we do not intend to depart from them; and while we, as law-abiding citizens, are in duty bound to venerate the laws under which we live, and be subordinated to the government, we cannot and will not submit to incompetency and imbecility in those who have been placed in power to administer these laws; and in the carrying-out of those stern resolutions we pledge our lives, our property, and our honor."

Others took a very different view of the matter, as the following from the Oakland *Transcript* testifies:

"A communication in the Los Angeles *News*, in answer to the recent pronunciamento of the Vigilance Committee organized there, thus comes out upon the Regulators: 'Is it right in the sight of God or man for any set of men to band together to commit murder? If the committee wished to bring offenders to justice, they should have organized under the law, and in aid of its administration. Moral reformers should not set all morals and all law, human and divine, at defiance. In their first manifesto the committee say in substance that they do not intend to take any further action unless, after trial by the courts, there is a failure of justice. Decidedly not! That is, after trial in the district and supreme courts a party is tried and acquitted of the charge of homicide or other crime, a committee of confessed murderers will sit in judgment of the case and reverse the decision, and hang the accused

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and acquitted if the judgment of the courts does not square with their ideas of right and law. Surely a blood-stained Daniel has come to judgment. If an honest jury and learned judge mistake the law, is society any safer in the hands of an ignorant association of green-grocers? If a learned judge errs, it is not very probable that he will be improved upon by a dealer in old clothes, or that the old-clothes man will be any more honest than a sworn juror. It was poor policy for the committee to court discussion in the public press. They are tolerable stranglers but very bad logicians. The sooner they hide themselves from the light of day the safer they will be.'"

These views accord with the opinion of a large and highly respectable class in the community, but it seems to me comprehensive and candid research points to different conclusions. Situation and circumstances are too often lost sight of. Setting these aside in the present instance, and regarding the question in the abstract, is it right to band to commit murder? that is to say, to execute capital punishment? Decidedly yes. The judge upon the bench is but the representative of men banded together to "commit murder;" the jury, in this sense, band to commit murder. The law is but a machine made by the people; if it works well, so much the better for all concerned. Those who made it rejoice in the perfection and efficiency of their handiwork as much as any one; if it fails in its purpose it is folly stubbornly adhering to it to the demoralization or destruction of society. In order to the right comprehension of this subject, the superstition of the fixedness and fatality of forms of law, amounting to unapproachable, untouchable necessity, must be dispelled. Those who made the law have the right at any moment, formally or informally, legally or illegally, to abrogate it. The necessity to adopt extreme measures is always to be deplored, is always deplored most of all by those resorting to it. But if they have not the right to throw aside a worthless machine, then the machine is greater, more inexorable and divine than the maker, which is absurd. That district and supreme courts are beyond the comprehension or control of the people is but another form of the same superstition. Judges and

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juries are proverbially uncertain and liable to error. The people, acting *en masse*, are likewise subject to mistake; but the people, being sovereign, are unrestricted by forms which too often hamper judges and trammel justice. If the people are sovereign at all, they are sovereign always; if they have the right to make laws, they have the right to suspend or annul them, formally or informally, if they possess the power and inclination to do so. The people are sovereign, yesterday, to-day, and forever. God invests them with this authority, and that without intervention of pope or potentate. It is better to have a settled policy in everything and work up to it; if the policy is bad change it, without interference with custom and habit if practicable, but if necessary at once and arbitrarily.

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CHAPTER XXX.

INFELICITIES AND ALLEVIATIONS.

Like one that on a lonesome road
Doth walk in fear and dread,
And, having once turned round, walks on
And turns no more his head,
Because he knows a frightful fiend
Doth close behind him tread.

Coleridge.

NOTWITHSTANDING the strength and dignity given to justice by the more calm but no less determined tribunals of the larger cities, mobocracy was still the almost universal remedy throughout the mining and agricultural districts. Much machinery was out of place where there were no jails, and there was a directness about the business most refreshing when a criminal was caught, tried, and executed all within an hour. Nor was it always convenient or possible to organize; hence justice continued to be administered in various localities in the form and spirit of mobocracy. I will now continue the chronological record of such instances as have come under my observation from June 1851, where it was dropped in a former chapter.

To the outward observer the lines between vigilance and the mob spirit were not in every instance clearly apparent. For example, when two Indians and two white men were publicly whipped at Benicia the 15th of July 1851 for robbing trunks and stealing horses, the latter being likewise branded on the thigh, the actors may or may not have been members of a vigilance committee.

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An Indian who on the 1st of August attempted to shoot a Mr Verro, was taken to Johnson's rancho, tried before a jury of the people, sentenced to thirty lashes, and the punishment inflicted before a large number of his tribe there present. Considering the circumstances the punishment was mild. In many localities the firing at a white man would have involved the massacre of the entire ranchería of the natives who did it. Notwithstanding which, if every white man who had unjustly or unjustifiably shot at or shot an Indian had been given thirty lashes, there would have been many sore backs in the great west, to say nothing of the east, during the period of its pacification, and subsequently.

At Ophir a man named Haynes was arrested and tried by the people the 6th of August on the charge of robbing a miner of four hundred dollars. The evidence was wholly circumstantial, and the jury could not conscientiously convict the prisoner. Without intending to hang him, they thought possibly they might extort a confession of guilt. Taking the man to a tree near by, they threw a rope over the limb and told Haynes to prepare for death. It was a ghastly joke. The poor fellow protested and prayed, and finding they could get nothing out of him, his tormentors finally let him go. A very moderate mob.

In the prison at Monterey on the 9th of August occurred a killing which approaches nearer to murder than does even mob law. William Otis Hall, *alias* Bill Woods, had been adjudged to death by the people the April previous for horse-stealing. Rescued from the mob by the authorities, Hall was lodged in jail. Making his escape, he was retaken, tried, and sentenced by the court to four years' imprisonment. About midnight of the date first named a party of eight men, masked, with *serapes* thrown about them, broke into the jail, gagged and bound Marshal Clapp, pinioned the prisoner, then winding a hide *reata* round his neck they tightened it to his death. This act was

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condemned by the entire press throughout the state. From the evidence before me I am inclined to the belief that the perpetrators of this deed were not citizens of the place, but accomplices of the prisoner, who adopted this means to prevent confessions implicating themselves.

On the 10th of this same month James Graham and Alexander Leslie went out prospecting and hunting in the hills near Greenwood Valley. Leslie carried on his person six hundred dollars, of which circumstance Graham was cognizant, and he determined to obtain the money. Falling a little behind, Graham pointed his gun in the direction of Leslie and fired, the shot just grazing Leslie's hair. Graham hastened to apologize, saying that he aimed at a squirrel. But shortly after, while Leslie was stooping to pick up his mining tools, Graham fired again, with better success, the ball entering Leslie's body. Rifling the victim's pockets, Graham started for San Francisco, where he deposited the stolen gold-dust, with twelve hundred dollars of his own. Leslie's absence excited the suspicions of friends, and they pursued and captured Graham, who denied all knowledge of the fate of Leslie. In the mean time Leslie, though left for dead, was not mortally wounded, and revived sufficiently to make his way after some days back to town. When he confronted Graham, as denial was no longer of use, Graham explained that the shooting was accidental, and supposing Leslie was dead, he thought he could make as good use of the money as any one. The explanation did not satisfy the miners, and Graham's death was at once determined upon. To use the language of the times from the mouth of a by-stander, "They gave him a big drink of brandy, set him on a box in a wagon, ornamented his neck with a hempen tie, and sent him cross-lots to where all murderers go."

Hugh Morgan about this time was convicted of robbery at Red Mountain Bar, on the Tuolumne. He was given twenty-five lashes and driven from the place.

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At the September election of 1851 a crowd of voters was gathered in front of a saloon at Granite Basin, smoking, drinking, and entertaining each other with rude jests and noisy laughter. Somewhat apart stood Aaron Bradbury, a hard-visaged, cross-grained man, but withal honest and industrious. He had gained the ill-will of his fellows by his unsocial and morose manner rather than by any real wrong-doing. As the crowd became excited by liquor, their conversation turned on Bradbury, and one story followed another, accusing him of falsehood and of improper intimacy with a married woman. Hearing his name used, he drew near and demanded an explanation; angry words ensued. With or without sufficient cause he drew a pocket-knife and stabbed one or two men, each of whom was more powerful than himself, inflicting several wounds, but none of a serious nature. Maddened at the sight of blood, the crowd rushed upon him, threw him down, and kicked and pounded him until the most brutal nature should have been satisfied. But this was not enough. Binding him to a chair, they hurried him off to hang him to the nearest tree. Protestations were of no avail; no extenuating circumstance would be considered; nor would they listen to his prayer for trial by jury. Reaching a suitable place, they released him from the chair and stood him beneath an oak-tree. Then tying round his neck one end of a rope and throwing the other end over a limb, twenty strong men took hold with a will and awaited the signal. At that critical moment three men stepped forward. One drew a knife and severed the rope, while the others faced the crowd. There was a quiet but bloody resolution in their eyes, and the half-drunken hangmen saw it and wavered. For six hours they faced each other, those of the law and those of lawless passion, until with cooler brain and restored reason the crowd gradually dispersed, leaving the law to dispose of the case in a less summary manner.

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During an all-night debauch at Weaverville two men of Sydney, Hardgraves and Seymour, walked hither and thither, they knew not where. In the morning the former missed a can of gold-dust worth a thousand dollars, and accused his comrade of the theft. Accordingly Seymour was taken to the historic tree, and was there twice elevated and twice lowered. Urged to confess guilt, he continued to declare his innocence. He was finally permitted to escape, and shortly after Hardgraves found his gold-dust in the chaparral where he himself had dropped it.

On board the steamboat on the way from Marysville to San Francisco in October was a passenger, a man of Sydney named Griffin, who stole a Colt revolver, which after diligent search was found upon his person. The bluster of indignant bravado which Mr Griffin raised on being charged with the irregularity did not save him. On the spot a court was organized by the passengers, before which the man was tried and found guilty. There happened to be on board an unfortunate Illinoisian, sick and penniless, who was on his way to the hospital. It was ordered by the court that the thief pay to the sick man the sum of one hundred dollars, which the man of Sydney was only too glad to do, trusting his liberty to see the sum restored from the first unguarded dust upon which he could lay his hands.

One of those wild spasms of divine right so frequent in frontier communities occurred at Mokelumne Hill on the 15th of October. The constable of the town, Donahue, for fighting arrested one Joseph Alexander, an Israelitish Pole twenty-five years of age, a man of considerable talent, well educated, and specially adept in speaking modern languages. On their way to prison the Pole was somewhat saucy, and the constable, a good-hearted, well meaning, but passionate man, struck the prisoner with a revolver, which exploded, but without injury. Another shot, accidental or otherwise, took effect in the prisoner's side,

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which caused death amidst the most excruciating pain. The people were profoundly moved. Donahue was taken and tried by a jury of twelve, with two citizens as presiding judges, with counsel on either side. It was during the trial that the Pole died, which event terminated the deliberations of the tribunal. Throughout the streets of the town a gong was sounded, summoning the inhabitants to assemble and determine what should be done with the constable. Many were for immediate execution, but the majority favoring more lenient measures, he was delivered to the authorities. Such action, often repeated, on the part of the people showed at all events the presence of an earnest desire to do right.

At Mud Springs, near Placerville, on the 8th of November an old man named Clark was attacked in his tent by Abner J. Dixon, a Wisconsin youth nineteen years of age, who cut him fearfully with a hatchet, robbed him of two hundred dollars, and left him for dead. By the print of his footsteps in the damp earth the felon was traced to his own tent, near which the old man's money was found buried. Dixon, who though young in years was old in sin, was promptly arrested, tried, and executed by the people, protesting his innocence to the last.

The miners about Sonora were greatly troubled with robbers and cutthroats during the autumn of this year. On the night of the 14th of November there was a regular butchery at Turnersville. The brothers Steward were badly cut and shot. One Boose was killed on the spot, and another, Olin, died next day. One of the gang, Domingo, was caught and hanged by the people immediately, previous to which he had confessed his guilt and exposed his comrades. Others of the band, which was composed of both Mexicans and Americans, were afterward captured and executed. This was the hot-bed of assassination and robbery, and for a time the law did not pretend to interfere with popular executions. It was

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simply a war between those who lived by honest work and those who followed robbery as a profession. A party of four Mexicans out on the war-path in this vicinity committed thirty murders within two weeks.

So much for 1851; now turn to 1852. For horse-stealing at El Monte and thereabout, a man calling himself Smith was arrested on the 2d of February. After two or three days' imprisonment in Los Angeles he was taken from jail by the people, who gave him a trial and adjudged him seventy-eight lashes. A singular popular freak attended the execution of the sentence. An Indian was appointed to inflict the punishment, when Smith objected and asked that a white man should be substituted. Ten dollars was offered to any one who would perform the repulsive task. The offer was accepted by an American, whose dress betokened destitute circumstances. No sooner was the work accomplished than he was seized by the crowd, placed in a blanket, and tossed violently in the air. This was repeated several times, when the poor fellow was made to fall so heavily on his head and shoulders as to severely injure him and render him insensible. The reason alleged for their brutal conduct was that any American who would offer to whip one of his own countrymen for money deserved such treatment.

It was unsafe at one time for even a native American to steal in California; but men of dusky skin indulging in such an offence were almost sure to find, at some historic tree, Apollo's best gift—death. In the autumn of 1851, at Newton, a black man was found guilty of theft and whipped; in the spring of 1852 he was found guilty of theft and hanged.

Two young men, supposed to be Americans, rode into Murphy Diggings the 8th of February on horses that the people suspected were stolen, and it was determined to watch them as dangerous characters. On that night three houses were entered and

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robbed of five hundred dollars in money. The next morning the suspected men attempted to leave town in different directions, but were arrested and brought before Mr Vanderslice, who acted as judge for the people's court. The guilt of the young men was easily proved, as the money was found in their possession. They received a trial and were sentenced to death. Neither would reveal his name or native place, and they were hanged without making any confession. One of them, on being questioned a moment previous to his execution, said with an oath that he would not confess to anything. "But," he added, "understand that I am one of the brothers; you can put that in your pipe and smoke it." It was afterward ascertained that they were not Americans, but criminals of the worst kind from Sydney.

A poor teamster came off the plains with a single yoke of oxen, which he sold for one hundred dollars in gold-dust to a person who left the place immediately after the purchase. The same day a purse containing one hundred dollars in the same kind of dust was stolen, and the poor man from the plains was suspected, arrested, tried, convicted, and deprived of his purse, with thirty lashes on his bare back. Burning under the wrong, no sooner was the whipping over than, seizing a pistol, the teamster placed it to the head of the man who first accused him: "You are the man who stole that money!" he exclaimed; "I know it. Now confess, and quickly, or as sure as there is a God in heaven I'll scatter your brains as far as powder will blow them!" The threatened man saw murder in the eyes of his accuser; there was no mistaking it. In truth he was guilty; so he drew from his pocket the stolen dust, whereupon the enraged crowd seized and hanged him to the nearest tree, and raising on the spot a contribution of seventeen hundred dollars presented it to the beaten teamster.

Some distance south of Stockton, on the San Joaquin River, a negress set fire to a hospital out of

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spite. As she was known to have done it, the proprietor and his friends were about to hang her on the spot, yet when she fell on her knees and confessed her crime the sentence was changed to whipping; but the whip being placed in the hands of a too vigorous American, she died under its blows.

The miners of Big Cañon, who missed several articles from time to time in March, having discovered some of the stolen property in the possession of a certain person, arrested and tried the culprit, and sentenced him to receive twenty-six lashes on the bare back. The punishment being duly administered, a committee was then appointed to show him the way out of camp. Procuring a Chinese gong, they paraded him up and down the street, calling upon all the people to come and look at him, that they might know him forever after; then they conducted him two miles on his way, and parted from him with the injunction that should he ever show himself again in that neighborhood he might expect to be hanged.

Marysville was the scene of great excitement from nine o'clock on the morning of March 20th till three in the afternoon. The streets were thronged. A thief named Tanner, under arrest for grand larceny, attempted to forfeit his bail and escape with the plunder which he had secreted. He was captured, with the proof of his guilt upon him. A people's court tried and condemned him, and demanded his life. The mayor endeavored in vain to restore quiet. At last he produced some little effect by bringing out the distressed wife and children of the condemned. Then threatening to use force of arms, the authorities took the prisoner and placed him in a building, before which Recorder Watkins stood with a cocked pistol, intimidating the near approach of any. The building was surrounded by the infuriated crowd, but Tanner, securely ironed in jail, was now beyond their reach, and the multitude were constrained to disperse.

A crowd of miners, numbering two or three hun-

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dred, collected round the jail in Coloma on the 15th of April and demanded the surrender of two prisoners, one Henry George from Sydney, and the other William Miller, a negro, who were indicted for stealing over seven thousand dollars. The sheriff was absent impanelling a jury, and the jailer was forced to comply with the demand. As soon as they had obtained possession of the men the crowd hurried them off to an adjacent tree, and without ceremony hanged first the negro and then the white man. Then returning to the jail they demanded Dougherty, another prisoner whose trial was in progress at the time; indeed the jury were then deliberating over a verdict. The miners sent word to the jury that they would be allowed fifteen minutes to bring in a verdict, as they should hang Dougherty at the expiration of that time. The jury soon pronounced a verdict of guilty, and the prisoner was sentenced to ten years in the state-prison. When the sentence was announced the crowd made a rush for Dougherty, but were quieted by Thomas Robertson, whose eloquent appeal induced them to disperse.

White Oak Springs was the theatre of one of those murder and lynching scenes which have been enacted in almost every town in California. James Hughlett made frequent and abusive attacks upon the character of another boarder at the hotel, Abner Spencer by name, who on the 29th of April resented one of Hughlett's remarks, collaring him and throwing him to the floor; while down, Hughlett drew a knife and stabbed Spencer so severely that he died. Hughlett was arrested, tried by the people, hurried to a tree, and hanged.

Two Frenchmen while asleep were murdered near Jackson, Calaveras County, in May. A Mexican named Cheverino was suspected as one of the murderers and arrested a few weeks afterward. A preliminary examination was held before Justice McDowell, and the man was committed for trial. The

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people, impatient of delay and satisfied of his guilt, took him from the authorities, led him to a tree in front of the Astor House, put a rope around his neck, and attempted to hang him. In their hasty preparations they had neglected to tie his hands. Catching the rope, he loosened it about his throat and they were obliged to lower him to the ground. He then took advantage of the opportunity to retract his protestation of innocence and to make full confession of his guilt. Then he was hanged in peace.

Four Indians attacked a man who was travelling from Downieville to Marysville the 30th of May; they shot him full of arrows and then clubbed him to death. Next day the miners made a formal demand on the chief, threatening to annihilate the ranchería if the murderers were not delivered up. Four warriors were given the white men, who found guilty and hanged three of them, thus inaugurating a new system for the adjustment of Indian difficulties in these parts; for in less than a fortnight thereafter, that is to say on the 12th of June, when one Comstock was killed with arrows between Marysville and Bridgeport, the chief, Wemah, was told that he must produce the murderers or be murdered himself. Choosing the former alternative, he delivered two of the tribe to the people of French Corral, who applied the hempen remedy incontinently.

James Edmondson, commonly known as Jim Ugly, was executed by the people at Yankee Jim in 1852. Here as elsewhere during the grand carnival, fights of every description in which life was freely risked and often lost were of frequent occurrence. Now and then, when a killing occurred of a nature more exasperating than usual, or if the slayer was a desperate character, a noted desperado, or a gambler, or if the man killed was respected or popular, there would be a trial and an execution; but if the combatants were equally matched, and the fight fair, but little notice was usually taken of deadly results.

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Early in June Mr Hoofins, a valuable citizen of Nicolaus, was murdered by a negro named Rideout. The man was arrested and after a trial was hanged by the people.

John Jackson, from the upper part of Plumas River, went on the evening of June 10th to the house of one Baker and his wife, a Swiss couple in Yuba City, and asked for food and a bed, which were given him. Next morning Baker went to Hock Farm, leaving Jackson in the house. Baker returned at noon, and his wife was missing; he was met by Jackson, who tried to shoot him, but the pistol missed fire. Baker went after his pistol, but that was gone. Meanwhile Jackson took a horse and rode off. Baker took another and followed, having first alarmed the neighborhood. Jackson was soon caught, and on him were found thirty dollars and Baker's pistol. The body of the woman was discovered, with marks on the throat and three bullet-holes under the left breast. A law jury sat upon the case; but without waiting for its verdict, the enraged people threw a lasso round Jackson's neck and hanged him to the nearest tree.

One night near Weaver Creek the apartment of a Mexican gambler named Lopez was entered by five burglars. One of them kept a pistol at Lopez' head while the others rifled his trunk of its contents. The robbers were arrested in the act. A jury chosen from among the citizens sentenced them to thirty-nine lashes each, which were duly administered.

A Mexican boy named Cruz Flores was also tried by the people at Jackson on the 11th of June as a confederate of Cheverino. Guilt was not proved to their satisfaction, so they turned him over to the civil authorities. Several hundred Frenchmen were present, armed with double-barrelled shot-guns and pistols, and when the decision of the people's jury was announced, the countrymen of the murdered man made a rush for the prisoner, demanding his life. During the struggle the boy's arm was broken. After a half

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hour's contest the infuriated Frenchmen succeeded in capturing the boy, and dragging him to a tree they hanged him, one of them holding to his legs until life was extinct.

A man named Williams was discovered taking money from the clothing of a man who was asleep at the Placer Hotel, Placerville, at daybreak the 15th of June. The boarders administered the punishment, banishing him from town after having given him kicks, blows, and twenty-five lashes on the bare back. This was the third case of the kind at Placerville that spring.

A man named Dunn was arrested upon suspicion of having stolen twenty-five thousand dollars from Diggs and Anderson at Cache Creek on the 17th of June. He was taken to a tree and strangled a little to extort a confession; a second and a third trial of the same kind were made, the last nearly proving fatal. As he persisted in protesting his innocence and total ignorance of the theft the torture was discontinued and the prisoner liberated.

A Frenchman named Raymond deliberately murdered a Chinaman at Big Bar on the Cosumnes in June. He was tried by a jury of twelve men and was immediately hanged by the people. Few instances of this kind are on record where a white man promptly receives his deserts for the murder or maltreatment of a Chinaman or a native, and it speaks volumes for the fair dealings of the miners of that locality.

The 4th of July this year came on Sunday, and was celebrated at Eureka by chastising a fellow named Francis Boyd, who had stolen a quantity of barley. He was given a dozen lashes on the bare back, and warned to roll up his blankets and leave the diggings within thirty minutes.

The town of Columbia has its Broadway, as has every mining-camp by whatever name called; and gathered round a tree standing at the upper end of

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this busy street on the 7th of July might have been seen an excited crowd with some object in their midst which commanded their violent attention. It was an old man, prostrate beneath the tree, half strangled by the rope which encircled his neck as it hung loosely from a limb. Every now and then his tormentors would seize the rope and pull upon it until the old man was lifted a few feet from the ground, when they would let him down again. Why was this? The miners were by no means a cruel people; children and old age, next to women, commanded their tender sympathy. This seemed harsh treatment. Assuredly it went against their feelings; but they felt that crime must be put down at any cost, and suspicion pointed to the old man as guilty of crime. It appears that one Yetes, on his way from his claim to the town, dropped his purse, containing twelve hundred dollars in gold-dust. Near the spot where he thought he must have dropped it the prisoner was seen to pick up something. On being questioned he stoutly denied any knowledge of it; nevertheless the magistrate committed him for trial. Speculation then began to spread about the town as to the probable guilt of the accused, until curiosity getting the better of discretion they proceeded to the prison and borrowed the prisoner from the law until they should satisfy themselves. For a time, between the short intervals of his suspension, the old man continued to deny his guilt; finally, fearing lest one of the upliftings should be a trifle too long, and being generally uncomfortable under the treatment, he confessed, discovered to them the money, and was banished.

Mob law in its reckless course afforded opportunity for the display of personal vindictiveness, and even for shielding the guilty, the accuser sometimes himself being the criminal. Such an instance occurred seven miles from Mariposa in August, when Moore and Company's store on Sherlock Creek was entered and robbed of nine hundred dollars. Suspicion fell on

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an old man named Johnson, who was at once arrested by a mob instigated by a young man named Carrico. Johnson was taken to a tree some little distance away, and being suspended, was strangled until life was nearly extinct, while Carrico and others demanded that he should tell where he had secreted the money. The unfortunate man denied any knowledge of robbery; though cruelly lashed, he would not retract the statement. Carrico then proposed that they should lay him on a bed of hot embers, and at the same time use other tortures too cruel to mention, but the crowd refused to indulge him further and released the prisoner.

A few days after, Carrico left the place under circumstances that aroused the suspicions of the miners. They pursued him, and upon his arrest discovered on his person the gold for the theft of which poor Johnson had been tortured. Carrico received a trial before a legal court and was sentenced to five years in the state-prison: a less punishment than his villainy seemed to deserve. If the same mob that had so unfeelingly persecuted the old man had turned its vengeance upon this callous wretch, applying to him the treatment he had himself proposed for another, the community would have sympathized with them, and would have upheld their proceedings.

Christopher Ferril, living in a cabin on Murphy Gulch, Calaveras County, was discovered on the 8th of January 1853 to have considerable stolen property in his possession. He was given twenty-five lashes on the bare back and driven from the place.

David Spence's rancho, on the Salinas River, was visited by some Mexican horse-thieves infesting that section. Pursued by the mayordomo and others, two Mexicans were caught hiding under the bushes between Gilroy and Pájaro. They were bound and committed to the Monterey jail for trial; but the inhabitants of San Juan preferred to see justice awarded

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at once to the scoundrels whose depredations had cost them so dear, and taking them from the officers they were hanged on a gallows the 8th of February.

Three Chinamen went into a store at Mud Springs on the 11th of February for the ostensible purpose of making some purchases. While the proprietor was showing some boots to one of them in another room, the others took the money-drawer and left the store. The merchant soon discovered his loss, and had little difficulty in tracing the Chinamen to a tent, where they were found dividing the nine hundred dollars which they had stolen. They were at once arrested, taken to the main street of the town, and at the demand of the excited assemblage were hanged.

Near Shasta, at a place called Whiskey Creek, a barkeeper in April became exasperated at some insult from a fellow-citizen and shot him. He was seized at once by the people and hanged within a few hours.

In April two Mexican horse-thieves were arrested near Martinez and hanged by a mob.

During the spring of 1853 there was a gang of Chilean desperadoes encamped at a creek two miles below the town of Jackson. They pretended to work in the mines occasionally, but in reality depended on robbery for a livelihood. A company of Chinese worked near the Chilean encampment. On the 27th of July the Chileans made a raid upon the Chinese, killing one man and stealing several hundred dollars. One of the Chileans was captured by the Chinese, who sent to town for assistance. Fifty armed men came to the rescue; when they arrived they found the prisoner being tortured by the infuriated Chinese. The Chilean was taken to town and kept in custody until morning, when he was executed in the presence of a thousand people. Vengeance extraordinary was directed against the Mexicans, Chileans, and Indians. A complete catalogue of crime with the sharp, swift vengeance of self-appointed justice, would fill a volume. In the southern mines a week's record of

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atrocities coming under the observation of one man consisted of three Mexicans hanged on suspicion of assassination; seven Mexicans shot in a gambling-saloon on a charge of cheating at cards; two Mexicans hanged for robbing a claim; one man hanged for murder, and a ranchería of natives massacred for killing and eating a stray horse—pretty lively butchery for one locality.

A quarrel occurred at American Flat on the 23d of May between a Mexican and one Jeffrey Lewis over a game of cards. The men were separated after an exchange of blows. Next day the Mexican approached Lewis, and without a word shot him dead and immediately escaped. A party pursued him, but failing in their attempt to capture him, arrested two of his evil associates. One of them made his escape, but the other was tried by mob law, found guilty enough for all practical purposes, and hanged.

A Chilean vaquero at Mokelumne Hill was suspected in June of having stolen stock from Joseph Kirk and his brother, ranchers in San Joaquin, and was seized and punished by them. With the assistance of McKee Raney the Chilean was subjected to a severe beating, and his bare back, fearfully lacerated, was exposed to the sun for several hours. He was at last liberated, when he returned to his home, where his story excited the sympathy and indignation of his countrymen. They raised the sum of one hundred and fifty ounces of gold-dust to defray the expense of a prosecution, as they wished to see what sort of justice the courts administered. In the mean time one of the Kirks appeared on the street in Mokelumne Hill, and was recognized by a mounted Chilean, who quickly threw a lariat over his head. He would have dragged him to his death but for the interference of the vaquero who had been so brutally treated by him. The vaquero insisted that his enemy should have a fair trial before the courts. Thereupon

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Kirk was liberated, and though pursued, succeeded in making his escape.

A drunken fellow named Vivian assaulted Marto, a Spaniard, at Condemned Bar on the 4th of July, when Marto in self-defence stabbed Vivian. The mob spirit was at once aroused, and though the wounded man was still living, the people determined that the Spaniard should be hanged. Marto, acting upon the advice of Judge Peterson, who thought the deed justifiable, attempted escape by plunging into the river. Before he was half across he was shot at and killed. A by-stander pronounced the proceeding an outrage; he had no sooner expressed the opinion than he was killed by the mob. In their unreasoning blood-thirstiness they talked of taking the life even of Judge Peterson.

But very different were some of their executions where calmness, order, and philosophic coolness characterized all their proceedings. A gentleman at the diggings learned that a man had been arrested for robbery in a neighboring camp and was to be executed. It created no excitement, but as he was curious to see the affair he walked over to the locality. Unacquainted with any one, he spoke to a man standing apart from the others.

"Will you tell me which is the man to be hanged?"

"I believe it's I, sir," was the reply, without change of countenance. Half an hour afterward he was hanging from a tree, and the community quietly dispersed.

John Clare and Andrew Cracovitch, fishermen, had a serious quarrel about their fish-tackle on the 16th of August 1853. Clare angrily walked away, and procuring a pistol concealed himself behind some lumber, where he lay in wait for Cracovitch. Soon after Cracovitch passed, and Clare fired, killing him instantly. He was arrested and placed in jail, where he boldly acknowledged the assassination. On the following day the mob dragged him from his cell, and

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taking him to the place where he had shot Cracovitch, hanged him there.

Spanish Charley, a bull-fighter, convicted by a people's jury of murder at Gibsonville in August, when brought forth for execution, though he denied that he was guilty, manifested not the slighest emotion. Binding the handkerchief over his eyes with his own hands, when all was ready he threw himself from the platform. In this trial and execution the people of Gibsonville were entitled to praise for one thing: from daylight until after the execution every store in the place refused to sell liquor, and the consequence was that of the thousand men present but two were intoxicated, and they were in that condition before coming upon the ground.

During the month of October two Irishmen made a complaint against two Frenchmen, whom they accused of having stolen fifteen hundred dollars from them. The Frenchmen were industrious men of good character, and were not generally believed guilty. However they were arrested, and were being taken for trial to Sonora by the constable when they were met by a mob of loafers and gamblers that the Irishmen had collected, and upon their demand the constable was forced to relinquish his prisoners. The mob then proceeded to a large tree, where they suspended the Frenchmen so that their feet just touched the ground, hoping to make them confess. Other Frenchmen stood by and urged their countrymen to admit their guilt, but only received their reiterated assertions of innocence. The prisoners were at last liberated, but not until their friends had promised to be responsible for the fifteen hundred dollars in case the men were found guilty after a fair trial. It was thought possible that the Irishmen's story of the robbery was without foundation, and that this method was used in the hopes of extorting money from the Frenchmen.

During this same month a Frenchman who appeared not entirely in his right mind, at or near Yreka

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committed homicide. He was arrested and hanged by a party from Greenhorn Creek, under circumstances too disgusting to be described.

Some Spanish desperadoes while in Alvarado on the 23d of November fired into a hotel; then proceeding to the Catholic church they broke all the windows. After this mischief they started for the mountains, and happening to meet an American, Frank Devol, fired at him, two shots passing through his coat. Devol with some friends pursued the Spaniards, who made a desperate effort to elude them. The Americans finally succeeded in catching one of them and brought him back to Alvarado, where a preliminary trial was held. At midnight on the 15th the citizens proceeded to the jail, overpowered the guard, and taking the prisoner to Alameda bridge, hanged him.

On a November Sunday in a saloon at Columbia an Italian invited an American to drink. The latter refused; the Italian would force him, but in return received a severe blow in the face. This so infuriated the Italian that he fell upon the American with a knife and killed him. The murderer was immediately arrested by a constable, but the excited miners wrested the prisoner from the officer of the law, dragged him by the hair through the streets to a tree situated on a hill, and hanged him. The limb breaking, however, before life was extinct, and the passions of the people having cooled meanwhile, they thought better of their course, formed themselves into a jury, tried and convicted the prisoner, and then turned him over for punishment to the civil authorities.

There were good Chinamen and bad Chinamen in those days—more particularly bad Chinamen. John's favorite rascality was the robbing of sluice-boxes. Sometimes the miners did not clean up their washings for several days or weeks at a time, but left the gold with the débris at the bottom of the sluices, and these the Chinamen used to like to clean up themselves at night, when no one saw them. Unfortu-

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nately for them, six of their number were caught at this pastime one Saturday night on French Hill by those who had long been watching for them. Two of them were brought to the post and given fifty lashes each, and their queues taken from them; the others slipped from the fingers of the avengers. This taught both the good and bad Chinamen a lesson. The latter were induced to be more circumspect in their stealing, or more especially in their escaping, while the former were not backward thereafter in tying to a tree and whipping any of their own number whenever occasion seemed in their eyes to demand it.

Sunday was an uneasy day of rest for the miner, whose life was divided, not unequally in many cases, between work and wickedness. Though not a working-day, its sacredness had been left at home, and it was now made the scape-goat of all the other days. It was then that miners washed, baked, and mended; on Sunday those who dug at distant camps came to town for their week's supply. Their drudgery done, all hands turned their attention to deviltry; some even neglected distasteful duties that they might the more wholly consecrate the day to Satan. It seemed almost a matter of conscience with some to drink themselves insane before nightfall, and supplement the day by an evening of tranquil inebriety.

Peter Nicholas, an Austrian working at Columbia in 1853, was usually ready for his rounds before noon, so that by three or four o'clock he was quite hilarious. Such was his condition when, in the afternoon of November 13th, with two companions he entered the store of C. H. Alverding, at the corner of Main and Jackson streets, and opened banter with one John Parote, a miner from Pine Log, who was there trading.

"I say, mister, what's your name?" began Pete. Parote deigned no reply.

"Well, then, where do you live?" Still no reply.

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"Do you know where you came from? What country do you belong to?" continued Pete.

"I belong to all countries," replied Parote; "I am a Californian."

"That won't do," persisted Pete; "I want to know what countryman you are?"

"All right—I'm an Irishman," said Parote; "does that suit you?"

"No, it don't!" exclaimed Pete, seizing the other by the collar.

"Let me go!" demanded Parote, endeavoring to release himself.

"No, I won't!" cried Pete.

Thereupon Parote struck his tormentor in the face, struck him twice, and struggling to release himself, fell backward over a bag of sugar, dragging his assailant after him.

"Hold him!" cried one of the drunken man's companions, springing forward. "Pete has a knife!"

The weapon was secured, but not until the Austrian had made three passes at Parote, who at the last thrust cried, "I am struck!" and fell back prostrate.

The Austrian was arrested, taken before Justice Cardey for examination, and committed for trial. Columbia having then no jail, the prisoner's leg was padlocked to a staple in the floor of a room adjoining the justice's office, and a guard set over him.

Meanwhile information of the affair spread, and soon miners were seen coming in from every direction to determine what should be done. Particularly were those from Pine Log interested, for there the wounded man had many friends in no wise disposed to regard lightly the stabbing of a comrade at Columbia. As day changed into night so darkened their mood; and by next morning the matter was arranged. After breakfast, quietly and openly a company of miners, the majority of whom were Pine Logites, proceeded to the justice's office, pried with a crow-bar the staple from the floor, and despite the expostulations of the

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guard took Nicholas to the gulch south-west of the Broadway Hotel and there made ready to hang him to a tree. The rope was round his neck and over the limb, but before the word was given, the constable and an assistant were up the tree trying to cut the rope, when the limb breaking, down came all together. It was an unlucky tree, and unfit for hanging purposes, now that the only good limb on it was broken; so they cursed it, cursed the constable, and then went over to the Gold Hill slope and chose a better tree.

By this time James W. Coffroth, a budding law-tender, was on the ground: Coffroth the cunning. He too wanted the man hanged, he said; it was the duty of all good men to hang bad men. But for the everlasting honor of our glorious republic, let all things be done decently and in order. Parote was now dead. As a matter of course Nicholas would be hanged; there was not a shadow of possibility of his escape. But for the credit of Columbia give the man a trial; force not Pine Log to hide her head among the nations for having hanged an Austrian upon whose cause no miner sat in judgment.

Talking thus against time, as was his purpose, Coffroth won. Presently the sheriff appeared. Solomon was his name, and a very good name, and a good sheriff. Judging from outward expression and carriage, he too would delight in seeing the Austrian hanged. Solomon's vocation was hanging; for such he had been created. But a close observer might have detected about Solomon's mouth that which belied his careless demeanor; a listener to the low word spoken here and there in the ears of the more intelligent and stalwart of the crowd would surely have detected it. Further, he would have seen the men so spoken to one by one slowly edging their way toward the prisoner, and so far as possible unnoticed form a firm belt of determination round him. Then opened Solomon his mouth; wide he opened it, for it was large, and by no means handsome.

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"Gentlemen," he said, without offering to lay hand upon the prisoner, "you will excuse me, but this man is going to the Sonora jail, there to await his trial by law. I am going to take him there. You are all good men, acting from good motives; but believe me, my friends, it is best as I have said." Solomon's friends did not agree with him, however, and making a rush upon the prisoner, they sought to rescue him from the law. But the belt of brawny men they found impassable. They saw themselves outwitted; such was Solomon; and availing themselves of the privilege of the beaten to swear, they swore, and Nicholas slept that night in jail. But for Coffroth and Solomon, hades would surely have been his resting-place.

The trial came on in due form the 25th of the following February, and the intelligent jury found Peter Nicholas guilty of murder and recommended him to the mercy of the court. They did not think he should be hanged, yet he murdered; they could not deny he murdered; but it was in drunken fun, and they thought imprisonment for life enough. Not knowing that with the judge, who has no discretion, murder means hanging, they make this mess of it. Justice acknowledged her obligation and the jury was discharged; but as is often the case, justice could have weighed out this man's due far more equitably without the assistance of twelve ignorant and stupid men. The 7th of April 1854 was fixed for the execution of Peter Nicholas.

At this time the great question in political circles was the location of the state capital. San José, Vallejo, Monterey, and Sacramento each begged the honor and profit of it, and to the legislature which convened at Benicia the first Monday in January 1854 numerous long petitions accompanied tedious communications setting forth the relative advantages of the several places, and what their citizens would give and do to settle the law-makers among them. The windy debates, and indeed everything connected

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with the subject became at length so tiresome that the miners, with their usual keen appreciation of the ludicrous, turned it into burlesque by drawing up a petition making Pine Log the state capital. Entering into the spirit of the thing, everybody signed it, particularly the Pine Logites, though it never was forwarded to the legislature.

We have seen that John Bigler often forgave the freest where the sin was greatest; indeed his reputation for pardoning was now notorious. He was specially forgiving of the sins of his followers. Now Peter Nicholas, the Austrian, when he killed John Parote, did not know there was such a being in existence as John Bigler, nor did he care. He had that which was more powerful than governors, gold, the master of John Bigler, the governor, now the faithful servant of Peter Nicholas, the murderer. It was not much; Pete had saved a little money at work, but all that a man hath will he give for his life. Pete's money bought him a good lawyer, an exceedingly good lawyer, an able man of easy conscience, not overscrupulous as to the tricks of the trade, and very expert in pointing the weapons of law against its own breast. In all seriousness, however, be it said to his praise that he proved a stanch adherent to his cause. He could not clear Pete by law; even the dolts upon the jury bench must say guilty when they meant innocent; so he would try stratagem.

Temptingly upon a merchant's counter one day this lawyer saw the list of signatures to the Pine Log capital petition. All hope to save his client's life by other than desperate means had long since abandoned him. Slipping the petition into his breast-pocket, he retired to his room, tore from the signatures, covering several pages of legal paper, the heading, wrote a prayer to the executive begging commutation of the death sentence of Peter Nicholas, joined carefully to it the list of signatures, many of which were written by the same hands that helped adjust the rope around

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the Austrian's neck, and forwarded it to John Bigler, governor. It was enough. Ten years of penitentiary discipline was made the substitute of hempen halter. And this, by one of those stampedes of state prisoners frequent in early San Quentin life, was reduced to four years, and Peter Nicholas, the Austrian, was again a free man.

On the 17th of February 1854 some members of a band of Mexican and Chilean robbers entered a cabin in Mariposa County, where they murdered and robbed an old man named Nathan Pratt, of Maine. One of the band was immediately captured and hurried to a tree in front of Pratt's cabin, where he was hanged. Another was soon arrested, but was protected by his countrymen, who collected from all parts of the country and demanded that he should have a legal trial. Upon this resistance the Americans banded in large force, seized the prisoner, and hanged him beside his comrade.

During the latter part of March a horse-thief, a Swiss named Schwartz, was captured and hanged by a mob at Jackson. The tree upon which he was executed had been used seven times for a like purpose. After the execution of Schwartz it was suggested that an image of Judge Lynch should be carved from the tree. A Mexican was hanged in July for horse-stealing. Another Mexican who had stabbed his brother-in-law was hanged by the people, his request that he might be shot, although backed by the entreaties of his many friends, having been refused. Another and another punishment of similar nature occurred at about the same time and place.

Sweet Sonoma, whose valley is too lovely to be so disfigured, saw the horse-thief Richie hanging from the tree where before trial the mob had elevated him the 30th of May. Richie had been arrested in Shasta City for stealing mules, and was sent to Sonoma City for trial under charge of a deputy sheriff and his

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two aids. The party stopped at the house of the officer over night; in the morning they were aroused by an imperative demand for Richie. Some fifteen or twenty men stood outside the house, and the command was perforce complied with. Taking the prisoner, they ordered the guard to remain where they were until afternoon. Proceeding to an old adobe house on Santa Rosa Creek, they held a long conference as to their disposition of Richie; hanging at once or trial by law were in turn considered. Acting upon their final decision, they brought the prisoner back unharmed to the guard, and told them to proceed with him to Sonoma for trial. The prisoner urged a delay until night before taking the journey, so that it was ten o'clock before they started. Their apprehensions of trouble seemed groundless, for they were now within four miles of the town without encountering any opposition, when suddenly there appeared before them like an apparition, veiled in the thick fog, about forty men, who seized Richie and ordered the guard to retire. Possibly they were Richie's friends come to release him from the approaching trial; in the mist that obscured everything it was impossible to tell. At daybreak the next morning the guard continued their way to Sonoma; but they had not proceeded far when they saw the body of Richie hanging from the limb of a white-oak. Although considerable excitement prevailed for a while, it subsided in the belief that a just punishment had befallen a horse-thief.

A party of men from Contra Costa, with George Carpenter as their leader, searching for stolen cattle, found some of them on the night of August 22d at a slaughter corral owned by Amedée Canu, a Frenchman, and Pierre Archambault, a Belgian. Hides bearing the owner's brand were also found concealed about the place. The two men were arrested and taken to San Antonio; the vote of the assembled crowd was asked as to what disposition should be made of them. It was determined that they should be

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given up to the authorities, which was done. During the night the ranchmen for miles around gathered at San Antonio and in the early morning forced the prison, and seizing the men, hanged them from trees in the rear of the Mansion House.

At Iowa Hill William Johnson, a noted desperado, on the 24th of December stabbed one Montgomery under circumstances peculiarly aggravating. No hopes were entertained of recovery. The assassin was seized by the sheriff, but was taken from his hands by the people, tried by a jury of twelve, and the next day was hanged, two thousand persons attending. Afterward Montgomery recovered. On the 5th of January five of the participants in the affair were arrested by the sheriff, who came down upon them with a *posse* of one hundred and fifty men, whereupon the bells were rung, and the people rallied, swearing that the accused should not be taken to trial. Thinking better of it, and having, as they thought, nothing to fear, seven others of the citizens who had assisted at the trial and execution came forward and voluntarily gave themselves up in order that they might share the penalty, if any, with their friends. They were held to bail in the sum of five thousand dollars each, but were subsequently discharged.

About the same time at Volcano, in Amador County, one Macy stabbed an old man. In less than half an hour after the commission of the crime he was executed by the mob.

Heslep, acting treasurer of Tuolumne County, was murdered on the 18th of January 1855. A man strongly suspected of having committed the deed was pursued and executed by the people within twenty-four hours. About the same time an old man of family at Jackson was killed by a young man, and in less than half an hour after the murderer was swinging from a tree without the aid of judge or jury. On the 26th two Chileans and a Mexican were hanged

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by the people in Contra Costa County for cattle-stealing. It was the nationality of these thieves that cost them their lives. The slayer of a man in a fight on the Klamath was found guilty of manslaughter by a court of law. This not satisfying the people they seized and hanged the prisoner.

Three banditti were arrested on the San Joaquin in January 1855, one of whom, Salvador Valdés, confessed their connection with a band of cattle-thieves, and said that fifteen were then on their way from southern California. He offered to deliver them all to the people if they would take him to the place mentioned; but as Valdés had previously been arrested and had made his escape, his captors would not risk the consequences of such an experiment. He boasted of having taken the lives of seven men, and gave vivid descriptions of his successful depredations on many ranchos. "A regularly organized band of horse-thieves," says the Sonora *Herald*, "exists in Tuolumne County, who carry on their depredations with an astonishing degree of boldness." After a trial by the people these desperadoes were convicted and hanged at Smith and Johnson's rancho on the San Joaquin River.

A travelling Frenchman relates that on reaching Hawkins Bar he saw a Mexican tied to the trunk of a tree and surrounded by a crowd. The culprit was stripped to the waist, and a dozen men armed with bridles and stirrup-straps were whipping him by turns. His offence, they said, was the murder of a bedfellow. Though his back was covered with blood and his face was deadly pale, with characteristic stoicism the Mexican uttered no complaint, but held between his clinched teeth the end of a cigar, as if in defiance of fate. Two hours later, on entering a tavern, the Frenchman was surprised to see the same man at a table with his executioners, drinking gin and whiskey. He supposed the affair ended; but the same evening he found the Mexican hanging from the branch of an

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oak. It appears that from compassion his judges had sought by the above means to deaden suffering and ease the exit.

On the 1st of February a crowd entered the jail at Oakland between three and four o'clock in the morning, and taking out two prisoners, named Sheldon and Parker, brought them to a tree near the bridge on the road leading to Clinton. There they executed Sheldon, but released Parker on account of information he gave inculpating others of the horse and cattle-stealing fraternity. Parker, however, was obliged to witness the execution of his companion.

Upon the affidavit of one William Paine four notorious horse-thieves were arrested at Turner Pass in May. They were named William Watson, William Hand, Adolphus E. Moore, and Pole Wilkerson, the two former designated respectively as Big Bill and Little Bill. Paine testified that these men called at his house and made inquiries as to the stock and money belonging to different persons in that vicinity. He had been acquainted with them for some time. They told him they had an easy way of making a living, freely exposing their method, and asked Paine to become one of them; telling him at the same time that when they had opened a secret so far to a man they would kill him if he did not join them. Upon the arrest of the men, they were taken before a people's court and the execution of two of them determined upon. They were conducted in front of the residence of the Rev. J. G. Johnson and placed on a cart under a tree, when the fickle crowd changed its mind and let the constable have them. After further meditation upon the matter, late Sunday night a small delegation took the men from jail. Watson was hanged and then shot; Hand was placed on a barrel for the purpose of hanging him, when he broke away and escaped to the authorities. The fourth prisoner, Wilkerson, effected his escape in the darkness. While in prison and under conviction of death they all made

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important confessions as to the organization with which they had been connected. Watson, or Big Bill, stated that the gang consisted of three hundred men, and was completely organized under a constitution and by-laws, and that it extended from the Colorado to Marysville. Brown was captain of the band. Renewed effort was now made for the arrest of others implicated by these confessions. Brown was at last overtaken stealing cattle from the Tejon, was pursued and captured, with two of his men, and all three were hanged.

Havilah when newly settled had in it a large quarrelsome element; so that street fights and saloon brawls were of daily occurrence, and many a life was there ruthlessly destroyed without a thought of retribution. One evening during this year, at the Casino saloon, a desperado named Bill Hammond was gambling with one Fred Stewart, when a dispute arose which led to Hammond's shooting Stewart dead. The assassin left the room, and the friends of the murdered man attended to the remains. The thought of pursuing Hammond was not entertained until John, the brother of Fred Stewart, returned from Whiskey Flat, where he was at the time of the affray. He started at once with six others to overtake the murderer. In the mean time Fred Stewart's funeral took place. Among the mourners the most sincere seemed a young woman, Alice Sterling, who was a miner's daughter and the *fiancée* of Stewart. Long afterward daily she would carry flowers to his grave. Suddenly she was missing, and after unsuccessful search the conclusion was that she had died by her own hand. In John Stewart's pursuit of Hammond the desperate character of the outlaw was fully evinced. His hiding-place was discovered in the Greenhorn Mountains. The pursuing party divided and ascended the mountain on either side. As Stewart with one companion, Gore, approached Hammond's retreat, a shot from behind a tree, followed quickly by another, laid both men dead.

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When the others came up and saw what had been done they abandoned pursuit. It was but a few days after this that Alice Sterling had disappeared. Three years later, Hammond was in a saloon in Pioche at a card-table, when a woman entered and unperceived by him stepped behind his chair, drew a revolver, and shot him dead. Then pointing the pistol to her own head, she fired and soon after died. The woman was Alice Sterling, and the foul murder of her lover, which with the killing of two others of their number the pusillanimous townsmen of Havilah had permitted to pass, was thus avenged.

Extra judicial associations did not always confine themselves to the punishment of crime; instances are on record where misfortune unattended by blame obtained recognition. On the 4th of March at Sonora, California, the banking office of Adams and Company, whose doors were closed in San Francisco nine days previous, was entered by a mob, the sheriff then in possession was driven out, the vault containing the treasure was broken open, and paying tellers appointed who paid it out as fast as checks were presented. After thus summarily liquidating the liabilities of this branch office, the remainder was handed back to the sheriff and the mob retired. Like attempts were made in other localities, most of which failed through the firmness of the officers of the law and the gradually increasing love of order and good behavior arising in the community.

In August six Americans were found murdered near Jackson. The Mexicans were accused; thirty-six were arrested, and some advocated the execution of all of them. Several were tried, and three hanged on one tree.

At Snelling in September some Mexicans were caught with stolen mules. One was hanged and another shot, the sheriff being blindfolded and manacled at the time that he might not interfere. While the coroner's jury, summoned by the deputy sheriff,

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were holding an inquest, shots were fired into the room by Mexicans, and several wounded, one fatally. The officer was taken prisoner but afterward released.

In all the southern mines there was no lovelier town than Columbia; but during the reign of bowie-knife and pistol it was the scene of many an unlovely performance. Bright the sun and beautiful the hills; sweetly sang the waters, and sweeter still the birds; fresh the air, which every morning freshened the delver's ardent longings often faint with waiting. Ah, what a fair world this might be but for the unrestful heart of man! Give me for companions rocks, trees, and flowers; or if of blood and sinew, then beasts, and birds, and fishes; or if of species kindred to my own, then savages, sylvan men and women for whom centuries of cultivation have not provided multitudinous arts as ministers to their passions; for my soul's light give me the sun, and whatsoever more it shall please my maker to let me know, but deliver me from the coarse brutalities of civilized men.

Columbia was fair I say; not so was Martha. Nature in her happiest mood had fashioned the hills, and overspread them with loveliness; had filled the echoing cañons with sweetest melody and laid on all a heaven of palpitating light; Martha's heart was acrid, and her blood like the clear babbling stream muddied by the miners, was turbid with the flow of the soul's impurities.

Therefore Martha was no saint; neither would she have been welcomed into the sisterhood of those immaculate dames whose virtue shines brightly only when placed beside black vice. Martha kept a saloon: what that meant in a mining town in early days the reader well knows. Some call them dens, but I do not; everybody went there, and she was as respectable as the men who were glad to sit on her sofa and talk to her because she was a woman; furthermore, Martha was married; married to a man.

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John Barclay was his name; and he was not a bad man, though a gambler, married to a prostitute, and finally hanged. He was not a bad man, though the woman he married brought him for a dowry what Helen brought to Troy—desolation. He was not a bad man, morally measured, as men go; I would rather have such a one my friend than many who make broad their phylacteries and sit in church pews, than many who count their worse than gambling gains by millions. He was honest and open-hearted, not mean; he gambled, and so did those for whom he dealt, the class that pretend to abhor gamblers, those who sit on one side of the table, condemning the no more guilty who occupy the opposite seats. True, the woman he married was one at whom those who had made her what she was threw stones; and he her husband was hanged, but it was for that which any manly man would have done under the circumstances, namely, for shooting one who was striking his wife. Let those whose morals cover no impurities, whose religion hides no hypocrisy, denounce the openly bad as in every particular worse than themselves; for myself I see much to excuse in the professionally wicked that I cannot pass by in the more refined rascalities of the prudish and the puritanical.

But in the tongue of current morals Martha was bad; and so was Barclay. The 10th of October 1855 they had been married less than two months. The event was celebrated while Martha was absent at an agency of hers at Chinese Camp. It was there that Barclay first met her, and their short acquaintance ripened into a sort of worm-eaten affection.

John H. Smith was a miner, not necessarily better or worse than Barclay; but the world in its moral technicality agreed, by reason of his occupation, in calling him better; though so far as the record goes, the only difference between them lay in the fact that Smith drank to drunkenness at the counter from behind which Martha served the poison, and gambled

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sitting at one side of the table while Barclay sat at the other side.

On the date before mentioned Smith dropped his pick and entered Columbia on a rousing spree. While in Martha's saloon he accidentally broke a pitcher which was standing on the counter. A fistic skirmish followed the high words arising from the accident; but the male being the superior brute, Martha was getting the worst of it, when Barclay entered, drew a pistol, and shot Smith dead.

The miners were furious, as they had reason to be. Barclay had no right to kill Smith; he should be hanged for it, and the miners would do it if the law would not. Coffroth was there, and stirred their passions in a moderate speech, partly to see them simmer and partly to sugar-coat his own popularity. Coffroth was becoming very wise. Two years back he was ready to fight for the law. And he still thought the law a good thing ordinarily, but in this instance—the murdered man had been a friend of his.

Jack Heckendorn, editor of the Columbia *Clipper*, was nominated judge, and a jury of twelve appointed. The sheriff and his subordinates were easily overpowered, the jail doors were beaten in with axes and crow-bars, and the prisoner was brought forth. Barclay well knew the meaning of it all, and on reaching the jail door made a desperate effort to escape. But on him, all at once, fell fifty men amidst horrible imprecations and cries of "Hang him!" "Up with him!" "Put him through!" "Swing him up!"

Beneath the ominous beams of the Tuolumne Water Company's flume where it crosses the Gold Springs road the turbulent tribunal assembled and sat. Here a ring was formed, and the prisoner with John Oxley, who had been appointed his counsel, placed within it. There were also the judge and jury, with Coffroth as prosecuting attorney, though he would gladly have seen Barclay free. Little prosecuting the poor prisoner required, surrounded as he was by the thousand

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flames of consuming vengeance blazing in the breasts of those ravenous for his blood. As well might Oxley stand beneath the high Yosemite and argue to the waters the folly of their falling.

And to Barclay, how sudden and how strange! It was like the delirium of a drunken dream. But an hour or two ago he was free and happy. The sun then shone for him; the glorious panorama spreading from where he sat, and soon to be rolled from his receding gaze, was then breath-inspired for him, attuned to the melody of his life. He had harbored no ill to the man he had killed, never before had seen him, did not even know his name. Instinctively he had raised his hand against him who had raised his hand against his wife. What demoniacal howler of them all would not have done the same? And all for a broken pitcher. Oh, most damnable!

John Ward moved that the jury be sworn, when the crowd shouted, "No humbug!" "Go ahead!" In this instance the crowd were right; what had swearing to do with it? There was not a juryman there but knew his verdict would be that of guilty; he dare not give another. Nevertheless the jury were sworn; and probably the consciences of some were eased thereby. It was the irony of the jury system and of judicial procedure, these mob tribunals, with their judge, counsel, and jury, and the verdict already before the trial. Swear in God's name, if there is any relief in it; but no wonder the crowd cry "No humbug!"

The witnesses were then called, but we will not follow them. The evidence is all before me, and is as I have stated. It was a very simple case: Smith was drunk, and Martha, angry that he should break her pitcher, applied abusive epithets, whereupon Smith seized and handled her roughly, and Barclay entering at that moment shot him. The whole affair, so says the testimony, did not occupy five minutes. Coffroth, the prosecutor, testified to the respectability of the prisoner prior to his marriage.

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Meanwhile the crowd were noisy and impatient. Martha Barclay was called by the defence to testify. Then the mob began afresh, "No, no!" "Away with her!" "Off! off!" "Put her away!" "Bring a hyena to testify!" And these great American justice-lovers would not let the hated object come near the ring. When the husband shot the man that assaulted the woman, then she was not his wife, and hence anathema. When the woman wished to testify, then she was his wife, and hence anathema.

Heckendorn, the judge, then asked if there were any witnesses from Chinese Camp, Barclay's former place of residence, when the crowd yelled, "What in hell do we want with Chinese!" "Send him to hell for witnesses!" "Make a prayer and let's have him!" "Don't wait! the sheriff will be here directly!" To which last remark the judge replied with gravity, "There is no danger the sheriff will get through this crowd." The answer was, "Give him to us!" "Up with him!"

Heckendorn, fearing the crowd would become frantic, then announced that the counsel on either side would address the jury. "Cut it short!" came from the rabble. "One minute apiece!" "Quick!" "Short!"

Coffroth, for the prosecution, opened and was listened to with attention and applause, for though the prisoner was his friend the eyes of the world were upon him. Oxley, for the defence, could scarcely be heard at all. He begged them to consider what they were about to do. "Enough!" "Enough!" was the reply. He spoke of the laws, when he was interrupted with "Damn the laws!" "No, no! up with him!" "Give him to us!" This last was the most horrible cry the prisoner had ever heard. There was more of the hungry wolfishness in it, more of that insatiable thirst for human blood, than could be found in oceans of current blasphemy. The judge asked that the counsel for the defence might be heard, but in vain.

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It was now dark. A large fire which had been kindled blazed near by, casting its crimson glare upon that terrible tribunal which struggled so hard to give the color of justice to their wildly insensate proceedings. It was a weird and woful spectacle.

While Coffroth was writing a letter home for Barclay, and just as the jury were about to retire, James M. Stewart, the county sheriff, rode up and in the name of the law demanded the person of John S. Barclay. He then attempted to seize him, but the mob in its fury easily caught up both Barclay and the sheriff, and carried them separate ways. In an instant Barclay was beneath the flume with the inexorable hemp about his neck. Stewart made a desperate effort to save him. Breaking from those who held him, he called upon the people to assist him in the discharge of his duty. With almost superhuman strokes he beat down the rabble between himself and Barclay, and with a knife attempted to cut the rope which held him, when he received a severe blow from a pistol upon his head, and was caught and dragged back into the crowd.

The remainder of this disgraceful tragedy I will not write, but will give it in the words of an eye-witness: "The hanging scene was one of the most terrible and brutal ever witnessed by man. The rope had been lowered from the flume above and haltered around Barclay's neck without the humane precaution of pinioning the wretch's hands and arms. A dozen men hauled away on the rope, and as the writhing body went up, a yell broke forth from the mass of men below. The imprecations were horrible, and the gesticulation brutally expressive. The mob was now frantic, murderous, mad. As the howling demons above hauled on the rope, Barclay in the intensity of his despair grasped the cord over his head with both hands and clung to it for a few moments with the tenacity of desperation. Those who were hauling attempted to shake Barclay's grip by raising the rope

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and letting it fall suddenly, and one of his executioners, a man named Terry, leaned over the edge of the flume and shouted, 'Let go, you damned fool! let go!' Finally one hand weakened and fell to his side; then the other gave way, and a few convulsive quivers ran through his frame as his breath was strangled by the tightening cord. Then all was still, the body hanging motionless forty feet above the surging mass of men beneath. For an instant an awful calm fell upon the mob; they seemed to realize the full extent of their horrible work, and men spoke in whispers as they gazed upward at the shape dangling between heaven and earth. Then the reaction came; the swinging body lost its interest, and the hoarse yells broke forth once more. 'To Martha's!' 'To Martha's!' they yelled. 'Let's rip the house down!' 'Down with it!' 'Hurrah, boys!' and away went a large number of the more blood-thirsty members of the mob. Arriving at Martha's, they broke the windows only. They then proceeded to a place called Pike's, and after behaving like a pack of mad fools, shouting and dancing, performed in the same insane manner in front of what was known as the 'China Houses,' one by one the surfeited mob disappeared, and shortly after midnight all was quiet in Columbia."

The year of the Grand Tribunal opens with the apprehension of two Chileans near Coulterville in March, charged with robbing Chinamen. Tried before a magistrate, they were acquitted. The people, however, were not satisfied. Robbing Chinamen was a common thing—no very great offence as wickedness went—and if the culprits had been Americans it is probable no further notice would have been taken of the affair. But the miners never missed a chance of hanging a 'greaser.' So these two Chileans were seized again, tried by the people, and one of them hanged.

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Four persons, three Mexicans and one Indian, who had been incarcerated on rather slight proof at Monterey to await their trial for murder, on the 17th of May 1856 were taken from the jail by the mob and hanged.

At Deep Creek on the night of the 23d of June Solomon Brundridge of Surprise Valley was killed by one A. J. Goff, who claimed to have committed the deed in self-defence. The wife of the murdered man was the cause of the difficulty. Goff boarded at Brundridge's, and the husband was jealous. Mrs Brundridge was a sinner. Goff told what he had done; but not finding that expression of sympathy in the eyes of his listeners which he deemed essential to his safety, he attempted to escape, whereupon he was arrested. The inquest over, the people concluded to hang Goff. Prisons were insecure, and trials expensive and uncertain. Whatever conclusion the law might arrive at, Goff was none to good to hang. So on the night of the 27th, fifty men of Surprise Valley, armed with guns, presented themselves before the house where Goff was confined and demanded the murderer. The limbs of the law bristled with bravery. Particularly Judge Bowmer felt himself called upon to lay down his life for the constitution of his country. Knowing that there was not the slightest danger of their firing on him, the judge placed his back against the door, and while a dozen open-mouthed guns regarded him threateningly, he loudly declaimed that they should make him like unto a piece of honeycomb before he yielded to their unhallowed demands. Shoving the good judge aside they entered, brought out the prisoner, and conducted him to a gate with tall posts and a cross-beam. A rope was thrown over the beam, one end of which Goff adjusted to his neck. While these preparations were going on he took occasion to remark that he was a dead-centre shot with a revolver, that he had killed more men than one, that he always said he should die with his boots on,

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and that if he might kill three more men in the valley he could die happy. Then climbing the rope to the cross-beam, he jumped off, launching his soul rudderless into space.

C. Colebrook, an English sailor living at Angel Camp, in the afternoon of September 26th went to the cabin of one Armstrong and plunged a knife into his heart for having called him a hog-stealer. Arrested, Colebrook was taken before a justice of the peace, and his trial began. But the people did not fancy the slow movements of legal machinery. They knew a better way, they said. An unhanged brother of this murderer roamed at large, who, had his just punishment been given him, might have deterred this deed. The murmurs of the dissatisfied grew louder, and the judge sent to San Andrés for help, the towns-people of Angel refusing him assistance. Night came on, candles were lighted, and still the trial continued. Suddenly a man rushed into court and exclaimed aloud that the sheriff was coming with a *posse* of men to shield the prisoner, and that now or never was their time. Immediately all was uproar. The lights were extinguished, judge, clerk, and constable seized and firmly held, while the prisoner was hastened to the nearest tree and his black soul let fly bat-like into the blackness of the night.

The resort to the swift and summary process of lynch law for righting the wrongs of a community is always hazardous as an experiment, and frequently results in the grossest injustice. As we have seen, the operations of the Vigilance Committee of San Francisco encouraged other communities to throw off the restraints of the law, and furious American mobs were occasionally guilty of acts of violence worthy of the wildest barbarians. In October of this memorable year of 1856 some Spaniards suspected of horse-stealing camped on Pájaro River were attacked by a party of Americans, citizens of Watsonville, and the whole party killed or captured. About six o'clock

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next morning six or seven Spaniards came riding through the town, and were attacked by the same party of Americans. A fight ensued, in which one Spaniard was wounded, while the others rode away. The wounded man was brought in and tied to a flag-staff, and a mob jury was hastily impanelled. While this tribunal was in session a discussion arose among the citizens as to whether the man should be tried by the irregular jury or turned over to the authorities. It was finally concluded to submit the matter to a vote, when the sentiment appearing to be in favor of turning him over to the authorities, he was secretly let loose. Then a hue and cry was raised, and the white mob launched out in pursuit, firing some fifty or more shots at the culprit before he was recaptured. He was brought in with a rope around his neck and tied to a post like a horse. Then, having been allowed time to smoke a cigarette, he was hanged without further ceremony.

Precarious is the path of horse-thieves. At White's rancho, near Watsonville, in October labored a native Californian suspected of intimacy with a band of marauders infesting that vicinity. Arrested and brought to town for trial by the people, certain of the moderate sort prevailed upon the hotter-headed to deliver the offender to the law. Next day, no one appearing against him, he was discharged from custody. When those who had made the arrest heard that the law had loosed their victim, they pursued and recaptured him. While arranging for his trial the slippery fellow broke from them and ran. Shots were fired, which failed to bring him down, but he was finally taken for the third time. The work was becoming too long and too warm; so quickly they hanged him to a tree, thus making sure of the execution, though failing in the trial.

The people of Happy Camp, in Del Norte County, arrested two Chinamen suspected of the murder of one O'Meara and of the robbing and burning of a

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store belonging to a man named Gazquet; the Chinamen confessed the crime and were hanged.

An American at a certain mining-camp, who doubtless was in haste to change his place of residence, appropriated to himself a horse belonging to one of his countrymen, and without saddle or bridle rode to Calaveras, some thirty miles distant. The owner on discovering his loss armed himself, mounted his horse, and followed the thief. The latter was taking his repast at the Empire Hotel in Calaveras when he felt a hand laid on his shoulder and heard a voice say: "Well, my friend, did my horse suit you? It was not the best in the corral, for you see I have overtaken you." Without apparent concern the other answered that the horse was in the pasture, and offered to fetch it. A ride of thirty miles had made the owner hungry, so he sat down and ate beside the thief. The meal finished, the two went to the sheriff to have the matter settled. There had been several thefts in the county lately, and the thieves had escaped; here was an opportunity to make an example. A jury was quickly convened, and by their verdict the offender was sentenced to be hanged. The condemned, a young man of some twenty-five years, tried to plead in his own behalf, but the verdict was without appeal.

He then resigned himself to death, merely asking that he might be shot instead of hanged, a favor which was granted him, as good shots were plentiful at Calaveras.

The physician of the place, who was a *soi-disant* phrenologist, noticed some peculiar traits about the head of the prisoner, and offered him ten dollars for it. The offer was accepted. The condemned enclosed the piece of gold in his tobacco-pouch, together with a lock of his hair, and asked the sheriff to send it to his mother in Missouri, at the same time begging him not to inform her of the cause of his death. The sheriff promised that he would simply tell her that her un-

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fortunate son had died from the effects of a horse-race. Standing up before the riflemen, the fellow bared his breast to them, asking them not to aim at his head, as he would not wrong anybody in his last moments, not even the physician. The corpse was yet warm when a dispute arose between the doctor and the sheriff, because the latter insisted that if the former wanted the head he must take the body with it. The doctor was obliged to yield. He severed the head from the body and carried it away in a sack, swearing that next time he would expressly stipulate that he was to have the head only. The body he threw into an old mining shaft and covered it with stones.

One night in a certain mining-camp a sailor who had deserted his ship stole two bags containing about five thousand dollars' worth of gold, and seized a third containing half dollars in silver. The jingling of the coin awoke the owner, who gave the alarm, and the thief was captured. A jury of twelve miners, with a man named Nutman officiating as judge, tried the case. The sailor was found guilty and sentenced to be hanged. It was finally thought best, however, not to take his life, but to give him one hundred lashes on the bare back, cut off his ears, and shave his head, so that he should be recognized as a felon wherever he went. The sentence was carried into effect, and the fellow kicked out of camp. Stealing the first mule he came to, he rode to Calaveras Diggings, where the animal was claimed by the owner. Again he was tried, and sentenced to be flogged, but when laid bare his back was found so cut by stripes that there was no place left to whip. The miners had compassion and drove him out of the district unpunished.

In the case of an American and a Mexican, arrested at Knight Ferry in September 1856 for horse-stealing, from the crowd assembled the prisoners were allowed to select twelve to act as a jury in the trial. Before proceeding, the people decided that a majority of the jury should be sufficient to render a verdict, and

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that such verdict should be carried out, whatever it might be. The decision of this jury, for a lynch court, was somewhat singular. The prisoners were found guilty and ordered to be given over to the legally constituted authorities for trial.

The people of Mokelumne Hill thought Henry Lorenze had taken Hopkins' money, but they could not prove it. One Sunday evening—it was the 4th of October 1857—Smith invited Lorenze to drive with him. Jogging along happily in a buggy, suddenly five masked men sprang from the roadside, seized Lorenze, and carried him up to a flume, where they nearly strangled him. Repeating the process of lifting up and letting down, with intervals of rest for confessional purposes, for about two hours, Lorenze was permitted to depart, nothing having been choked out of him. It is needless to say that his friend Smith did not wait with his vehicle for him.

One of the Wolfskills, of Solano County, in October 1857 lost a horse, which was supposed to have been stolen. One day the animal returned of its own accord, but with a saddle on its back. After due inquiry a Mexican living in Vaca Valley was pronounced the guilty person, whereupon a party of the horse owner's friends called upon the Mexican, who, seeing them handle with such grace and looseness the ominous hemp, threw himself upon a horse and fled. The others were instantly after him, and they finally succeeded in running him down in the vicinity of the Potrero Hills. Then they hanged him in due form; but before life was wholly extinct, on ascertaining that he was not the man they had taken him for, and no horse-thief, they lowered him gently and begged his pardon. Commenting on a similar incident, the editor of the New York *Democrat*, writing 'hung' for 'hanged,' 'vigilance committee' for 'mob,' and, perhaps, 'Illinois' for 'California,' says:

"Lynch law is tolerably effective, but it has its faults. Mistakes are liable to occur. The other day in Illinois a vigilance committee hung a man because

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he looked like another man who had stolen a horse. The mistake was discovered after the man's neck had been twisted all out of shape and the breath of life had been permanently removed from his body. He naturally felt a little cool toward that committee, and no amount of apology on their part could restore him to a proper sense. The lynch-law men should be sure they are right before they go so recklessly ahead."

The Argonauts of California were not much given to vexatious civil suits, but had their own way of filing demurrers, enjoining trespassers, perfecting titles, etc.; and it certainly had the advantage of economy and despatch. In the summer of 1858 a company of miners were working a bar-claim on the Stanislaus River, near Peoria Bar, using a wheel for raising the water into their sluices. Two Frenchmen went to work below them, with a view of fluming the river, and were putting in a dam, which had attained such a height as to force the water back on the wheel of the other company, when the latter remonstrated. An angry altercation followed, the cañons for a time reverberating with the sonorous maledictions of Missouri mingled with the trilling r's of France. Then the Frenchmen, issue having been thus legally joined, went to their cabins and came forth with shot-guns, and opened fire on the others, who were unarmed, soon stretching three of them upon the ground, one dead and two mortally wounded. The Frenchmen, taking their arms, left the place. Some miners, headed by a man named Pike, followed them across the Stanislaus River and up into the Chaparral Mountains, where a fight ensued in which Pike was slain outright and one of his followers, Charles Kennedy, mortally wounded. The victorious Frenchmen then continued their journey, but probably soon found their "last camp," as all the miners of that region were on the lookout for them.

A Mexican gambler named Pansa stabbed a German at Sutter Creek. The miners selected a jury and tried the Mexican; the jury found him guilty, and the verdict was seventy-five lashes, as the Ger-

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man was still living; but should he die, Pansa was to be hanged. The lashes were given with a will. The next day the German died; the Mexican was then executed. The justice of the verdict was conceded even by his own countrymen. The whipping in addition to the hanging would not have been required had the German died outright; but when the suffering of his victim for twenty-four hours is considered, the sentence seems to present some shades of equity finer than those often distinguished by the law.

Nine thousand dollars were stolen from the express office at Fiddletown on Sunday night, the 1st of February 1857. Five men, notorious as gamblers and thieves, were arrested and lodged in jail on suspicion. Unable to obtain the facts in the affair, two of the prisoners the Tuesday following were taken out and lifted by ropes round their necks, but were lowered before life was extinct. They would confess to nothing, and were set at liberty. On Friday another, Stepperfield by name, having displayed much bravado throughout the affair, was brought out, pinioned, and hanged to a tree, but was rescued by the sheriff, who removed him to Jackson jail.

The people of Bangor, Butte County, it appears did not approve of the murder of Chinamen, even by white people. On the 2d of April 1857 four men, who had escaped the sheriff holding them on a charge of killing a Chinaman, were pursued and captured by the people, and three of them instantly hanged. Before the execution the criminals confessed their guilt. They belonged to a gang of about fifty outlaws.

Gold in tempting quantities being discovered on Butte Creek in the early summer of the same year, the treasure-hunters assembled to adopt measures for laying out a town. First the spot must be christened. 'Goatsville' one suggested for a name; another 'Hubersville,' another 'Shaderville,' but 'Diamondville' carried by seven majority. Hanging seemed next in order; that is to say, let an example be made, and so

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secure safety. The victim was a Chinaman seen robbing the sluice of one Timothy O'Mera at midnight. The heathen was detected by a watchman and shot, once, twice; notwithstanding the leaden increase of weight, John ran two hundred yards, when he fell and was captured. Semi-strangulation was resorted to in order to ascertain the whereabouts of plunder previously taken. John was firm. Off came the pride-sustaining queue; still John spoke no words. Finally even his Chinese stoicism gave way, and the poor Celestial promised if his tormentors would take him to the tent of a countryman he would pay two hundred dollars, which was the amount said to have been taken. Unable to walk, the miners carried him; but arrived at his brother's, alas! he knew him not. Distress severs the affections even of Chinamen. Some were now for hanging what remained of John upon a tree. But others said No; what advantage should accrue from extinguishing the little light left in that unhallowed lamp?

Entering Auburn by a certain road early one morning in February 1858, one might have seen, perhaps with some surprise, a black body pendent from a tall pine about half a mile from the town. The negro's name was Aaron Bracy, and he was placed there, at some moment selected from the silent hours of the night previous, by the citizens of Auburn, who took him from the custody of the law, to which he had voluntarily delivered himself after the murder of a much respected inhabitant of the place.

It is not often that a Chinaman kills a white woman in California; yet there was such an occurrence at Cooke Bar, near Sacramento, the 18th of October. Mrs Sarah Neal, a respectable Irish woman with four or five thousand dollars, kept a store at the time and place above mentioned. Shortly after mid-day, during the hours of business, while the woman happened to be alone in the store, a Chinaman entered and with a knife cut her to death. The Chinaman

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was immediately hanged by the people. The cause of the killing is not known; John's ways are mysterious.

Harrison Morgan and Richard Wallace were arrested the 30th of November 1858 on suspicion of the murder of John Leary, constable of Columbia. The prisoners were lodged in jail at Sonora, and on the 2d of December were taken to Columbia for examination. Wallace confessed to numerous thefts, but denied the murder; against Morgan there was stronger evidence of guilt. Meanwhile the cloud of popular opinion blackened without. The officers saw the coming storm, and when ready to remove the prisoners ordered the court-room cleared of spectators. The sheriff's buggy was standing at the back door; and as all seemed quiet, although the assemblage was large, he did not anticipate danger. Sedgwick, the sheriff, and Mullan, the marshal, took Wallace, while the deputy sheriff and a constable conducted Morgan. As the party passed out, a rush was made by the crowd for the prisoners. Morgan's keepers struggled manfully to hold him, and Morgan struggled manfully to be held by them; but the mob was too many for them, and away he went to his death. The sheriff, when he saw one prisoner lost, shoved Wallace back into the court-room. There were now comparatively few people about the place, most of them having followed Morgan. Yet there were enough to give the sheriff a severe struggle before he succeeded in placing the prisoner in the buggy beside the driver, and sending him as fast as the horse could run, with the mob howling at his heels, toward the Sonora jail. Night came on apace, cold and windy. With the departure of the sun the feverish passions of the multitude subsided. The miners scattered to their homes; and where so lately the infuriated mob had stirred the dust with their wrestlings and rent the air with cries of vengeance, quiet reigned. Along the dusty road that leads from Gold Springs came roundly racking a dusky child of the Flowery Land. A basket of fish

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was on his head, and round his heart played feline strains of home. Just as he was passing under the flume that crosses the road near the town his head came in contact with a long swinging object, which sent his basket of fish flying into the bushes. Looking up he saw dangling about his head the grim corpse of Morgan the murderer, left hanging there a few hours before by his relentless executioners. John's breath came wheezing; his coppery face assumed an amber hue; his almond eyes grew round; the very tail of him rose and pointed backward toward the object of his consternation as he ambled swiftly into town.

As late as 1859 pistol-carrying obtained at Mariposa. To see rational, civilized human beings mingling friendlily or passing back and forth between neighboring towns with huge six-shooters strapped to their waist, as if to kill and keep from being killed constituted an important part of each day's economy—it was interesting. There was a whole volume of unevolved sociological science in it. It was most kind in Mr Colt, just as gold was discovered in these parts, to furnish Californians with such beautiful claws as God had forgotten to give them. All animals but man have weapons forged for them by nature; now man has his, and the work of creation is complete. Claw, cut, shoot, kill, thou more than wild beast! for the brute does thus for food or safety, and under the influence of instinct, while soul-endowed intellectual man kills for nothing, oftentimes for the mere pleasure of killing.

The body of a murdered man named Shields was found near Pine Grove, Sierra County, in the spring of 1860, and one John O'Donnell was suspected of the crime. Shields was known to be the seducer of O'Donnell's wife, and by the better portion of the community the homicide was considered justifiable if perpetrated by the man whose home had been thus destroyed. Shields' friends, however, determined that

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O'Donnell's life should atone for the murder, and his arrest was demanded. A legal trial was instituted, where the conflicting testimony made it probable that the jury would acquit him; but in case the jury disagreed, O'Donnell was to be transferred to the Downieville jail, thirty miles distant, to await further investigation. The snow was deep at the time, and the Shields party expressed fear that O'Donnell might escape the authorities while being transferred. To remove all uncertainty as to acquittal or escape, the rough element banded, numbering about one hundred and forty men, and disguised, marched, toward midnight the 2d of April, to the hotel where O'Donnell in the custody of a constable was taking supper. Surrounding the building, they awaited the signal, two pistol-shots, when the mob rushed forward, entered the room, seized O'Donnell, and without allowing him any time for preparation, led him to Pratt's livery-stable, where they improvised a gallows and executed him, leaving the body to disclose the deed, but nothing to indicate the authors of the tragedy.

In the spring of 1861 at the mission of San Gabriel crime assumed atrocious proportions in the frequency of abusive attacks by men upon their wives. Within a week or two no less than three Californians had been arrested for inhuman treatment of women, one of whom had been sentenced to the state-prison for five years; another was in jail awaiting sentence, while the third, Alvitre, received immediate punishment by the people, as the following account details: José Claudio Alvitre, a hard-drinking man sixty years of age, lived with his wife at the old mission. They had a family of twelve children, the most of them grown up and away from home. The old man when under the influence of liquor seemed to have an almost insane desire to abuse his wife, for which offence he had recently been imprisoned for four months. On the 5th of May, after drinking freely, he determined

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upon taking more severe measures than ever, and giving errands to his several children, was left alone with his wife, whom he stabbed several times, causing immediate death. As soon as the fact was made known a crowd gathered about the house, and seizing Alvitre, took him to a tree, where his countrymen had made preliminary preparations for his execution. The circumstances needed no investigation; there was no doubt that the woman had been murdered by his hand. Accordingly he was placed on horseback beneath the tree, a lariat thrown over a limb, one end noosed about his neck, and the horse driven from under him.

Between Elizabeth Lake and Fort Tejon in March 1862 some travellers discovered four bodies suspended from trees. They had engaged in cattle-stealing with impunity for some time, but at last, overtaken by the owners with the stolen cattle in their possession, they had been executed without trial, and their bodies left unburied as a warning to others.

The 24th of August 1863 at Gilroy an Indian was arrested for the murder of a teamster. The culprit was committed for trial by the court, but the mob took him from jail and hanged him from a tree in the street. It was only a poor native; he had no money; what was the use of trial?

Charles Barnhart and William Riggs, the 22d of June 1865, at Susanville, *en route* for Chico, quarrelled about a piece of rope. The shortest way to settle the difficulty was for one to kill the other, and this the former did. The shortest way to justice was to hang the homicide with the same piece of rope, and this the passengers immediately did, erecting apparatus for the purpose from the trams of their wagons. *Ergo*, of the three subjects to the controversy, Charles, William, and the rope, there remained only the rope.

On the 19th of November 1866 the store of John Newhouse in Chipps Flat, Sierra County, was robbed

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of goods and provisions. The following night Newhouse went alone to search the premises of some Chinamen whom he suspected of having committed the robbery. As he did not return, his friends became alarmed and went in search of him. After visiting several Chinese camps to no purpose, there appeared enough suspicious circumstances to justify them in arresting a Chinaman called Whalebone. Promising no harm should befall him if he would confess what he had done with Mr Newhouse, he led them to a place where the body lay. The Chinese had cut it in two, that they might the more easily dispose of it. The body was removed to Chipps Flat, and Whalebone was brought before the justice of the peace, who began a legal inquiry. The report of the murder having spread, a crowd of two hundred miners gathered round the mutilated corpse, the sight of which so exasperated them that, in spite of all the officers could do, they burst into the court-room and took the trembling Whalebone and stoned him to death; then hanged the body to a limb of a tree. After that they went through the Chinese camp and levelled every cabin to the ground. It was only by the utmost efforts of officers and the better portion of the community that a general destruction of all the Chinese property in the county was prevented.

Another execution at San Juan is recorded as having occurred on the 16th of May 1867. One Elder Thompson, working for F. Ross, assaulted Mrs Ross in the absence of her husband. Thompson was arrested, and while being taken to jail to await the action of the grand jury, the stage in which he was riding was brought to a halt by a band of masked men, who, seizing the prisoner, dragged him to a tree and hanged him. The neighbors found the body there the next day and buried it.

Estévan was a bad Indian; and when under a tree in the alameda of San Juan on the morning of the 21st of August 1867 the body of William Fitzgerald

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was found dead, suspicion fell on Estévan, for he had been seen to leave the town that morning. Pursued and brought back, he was regularly tried by the people and executed beneath the same tree where lay his yet unburied victim. His guilt was clear, some of the dead man's clothing being on his person when arrested. Like a martyr, like a Roman, like any one who manifested the utmost indifference to fate, sighing no sighs, groaning no groans, praying no prayers, asking no favors from God or man, Estévan died; and yet he was only a poor bad Indian. For this no one sings Estévan's praises; why then so laud the great and good who die serenely?

At Greenville, Plumas County, a reckless fellow, Webb, stabbed and killed an unoffending citizen named Gephart on the 30th of March 1868. Webb was arrested by an officer, who was obliged to surrender him to an incensed crowd and see him executed that evening without trial or time for preparation.

Considerable suffering was caused the settlers round Clear Lake from the overflow of waters, which they believed came from the dam thrown across Cache Creek by the flour and sawmill company. Failing to obtain redress from the courts, three hundred men, armed to the teeth, assembled at the mills on the 15th of November 1868 and began the work of destruction. The sheriff with his assistants appeared, but not only were they unable to control so powerful a force, but were themselves taken prisoners. A request was sent the governor for troops, but it did not reach him until after the mills were burned and the dam torn away.

A gang of Mexican horse-thieves was pursued by Sheriff Bourland and his *posse*, of Tuolumne County, in August 1869, and overtaken between Hornitos and Lagrange. The officer, meeting with resistance, fired upon the Mexicans, killing three. They captured one named Robbes, who was taken to the sheriff of Snelling, Merced County, with orders to be sent by him to Sonora. A deputy sheriff started with him

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in a buggy, but was stopped on the way within a few miles of Lagrange by four masked men, who seized the prisoner and hanged him.

From the calaboose at Watsonville three men, committed for the murder of one Indian Bill, were taken by a mob to Pájaro bridge and there hanged on the night of the 16th of May 1870.

In the jail-room of the Oroville court-house on the morning of the 24th of August 1870 C. Olsen lay confined for the killing of M. Logan. Before daybreak about forty men surrounded the premises and posted their sentinels at each corner and at the entrance. A party of them then entered the jailer's room, in the basement of the building, and seizing the under-sheriff, Vera, wrested from him the keys of the jail. No one present knew how to use them except Vera, and he refused to reveal his knowledge. The jail door was then battered down, and the cell entered where Olsen was confined. Dark hints of bloody acts done within those narrow walls were thrown out, but nothing definite is known. That Olsen was shortly afterward taken to a derrick near the railroad station and hanged was a fact palpable to all.

At Bakersfield on the 6th of September 1870 Juan de Dios Sepúlveda, of Los Angeles, was taken from the custody of the sheriff to a cotton-wood tree near by and hanged by the people. During the day the great number of native Californians well armed and most of them mounted had been remarked. These had leagued with the white citizens of that vicinity to rid the country of bad characters. Sepúlveda had been before Justice Jones for examination, and when he was brought out, one of the horsemen rode up to the officer as if to speak to him. Watching his opportunity, he suddenly seized the prisoner; the crowd pressed round to his support, and hurrying the unfortunate man away, they accomplished their purpose.

In El Dorado County some jewelry was stolen during the winter of 1872, and suspicion fastening

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upon a Chinaman, he was tortured by strangling three times, to extort a confession as to the hiding-place of the valuables. As he reiterated to the last his innocence and ignorance of the theft, he was liberated. There was an arbitrary execution in Cholame Valley in 1873, and several bad characters were expelled from Gilroy and Salinas.

George Blanchard was a young man from New England, twenty years of age, employed on a rancho in 1874 by a Mr Wild at San Luis Rey. Patrick A. Graham, a neighbor, brought to the rancho a horse belonging to Wild, which he said had strayed upon his land. Graham told Blanchard there was fifty cents to pay, which he would call for the following day. Accordingly he went to Wild's house, and was met at the door by Blanchard, who shot and nearly killed him, neither having spoken a word. On Saturday, the 14th of February, Blanchard was found on the banks of the San Luis Rey River hanging from a tree, the rope looped at the back of his neck and a wooden gag tied in his mouth with a buckskin string. Nothing was ever discovered in explanation of how or by whom the hanging was done.

At Silver Mountain one Reusch shot a man named Ericcson in the back of the head. Some of the citizens banded, believing that unfair means would be used to clear Reusch. On the night of the 17th of April 1874, while deputy sheriff Davidson, accompanied by eleven witnesses, was conveying the prisoner to Bridgeport, Mono County, he was met by a body of vigilants near Johnson's bridge, who forcibly took Reusch from the wagon and ordered the others to proceed to the turn of the road and wait there ten minutes. An inch rope was at once placed round the prisoner's neck and the other end fastened to the bridge. Piteously the wretch begged, "My God! what can I say? O my father! my poor mother! will no one save me?" The mercy he had denied his innocent victim could not be granted him. A moment

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later and a piercing shriek broke the awful stillness; the fall, twelve feet, was so great that the rope broke and the body fell a distance of twenty feet. C. P. Goff, counsel for Reusch, and Mrs L. C. Brittan were warned "by an outraged community," as the order was signed, to leave the county within thirty days.

At Windsor, Sonoma County, two well known farmers named Rowland and Charles W. Henley had ranchos adjoining. A feud had existed between them concerning their land rights, which Henley brought to a crisis on the morning of the 9th of May 1876, when, in the midst of a quarrel, he raised his shot-gun and discharged some bird-shot into the body of Rowland, who fell mortally wounded. Henley at once started for Santa Rosa, where be delivered himself to the authorities and stated the facts. He said that he had acted in self-defence; but as there were no witnesses, the case in court would prove doubtful. Henley was a white-haired man of fifty-five, and married; Rowland was ten years younger, and unmarried. Naturally a trial should follow and justice be administered. But at midnight on the 9th of June a force of one hundred masked and armed men took possession of the jail. They had cut the bell-rope of the engine-house to prevent an alarm, had captured the watchman near the prison, and had entered Sheriff Wilson's house, obliging him to dress and come with them to the jail, leaving a guard of eight or ten to see that the women should not make known their plans. Arrived at the jail, they surrounded the sheriff, and with pointed pistols ordered the various gates and doors to be opened, their men stationing themselves in positions designated. Then Wilson was told to unlock Henley's cell. There lay the prisoner sleeping peacefully. Suddenly awakened to the awful reality, he exclaimed brokenly, "Oh Lord, boys! my life!" Not a word more, for he was gagged, bound hand and foot, and hurried out of prison. The crowd moved on, leaving ten men to guard the watchman

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and sheriff, who after a while were told to lock the prison, extinguish the lights, and enter a wagon, which they did. They were then driven to a place known as Gravel Slough, where they were released and allowed to walk home. They immediately notified the authorities, who proceeded to look for Henley, whom they found hanging from the limb of an oak within one hundred and fifty yards of the spot where the sheriff was released. The press condemned the proceedings in strong terms. The Sonoma *Democrat* of June 17th says:

"For the first time in its history Santa Rosa has been outrageously disgraced by the violence of a mob. We do not hesitate to denounce the act as a dastardly outrage on the law and on common decency. There can be no excuse sufficient for overturning and bringing into contempt the majesty of the law which protects the life and property of every citizen."

Says the San Francisco *Post:*

"One of the most reprehensible cases of lynching that has ever occurred in this state took place at Santa Rosa on Saturday morning. Howsoever guilty he may have been in this one act, he was not a desperado, not a man dangerous to the community, where for many years he had lived an inoffensive life. He was led away from the even tenor of his course by extraordinary circumstances, and was awaiting in jail the punishment which the courts might inflict. Under such circumstances he is ruthlessly seized by a mob and hanged. Public sentiment must condemn such an act, and no effort should be spared to bring the perpetrators of the crime to justice. The era of vigilance committees has passed in this state. There is no longer a shadow of excuse for their action, and the heinousness of such an offence is as much greater than ordinary murder as organized crime is more deplorable than individual violation of law."

It was a gay wedding, but it was the dance of death which followed. The ceremony of uniting Thomas Flanagan and Mary Pina was performed by Judge Harrison at Sanel Valley the evening of the 20th of December 1875. Among the honored guests was William Grangene, a repentent thief, who had served a term in the state-prison for grand larceny. While this man was standing on a box near the window a ball fired from without came crashing through the glass, came crashing through the ex-convict's skull,

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liberating the crime-concocting intelligence therein contained, liberating mysterious life, and leaving only the carcass prostrate upon the floor. José Antonio Igarra, once of Vasquez' band, was suspected and arrested, but while the examination was proceeding before Justice Dooley at Hopland, a band of undisguised men entered the court-room, took thence the prisoner, and hanged him from an oak in the street three hundred yards distant. Grangene had lately given evidence in court which Igarra did not relish.

Near Cloverdale in December 1876 one Joseph Murphy was taken by masked men from the hands of the constable while on the way to Santa Rosa with the prisoner, who was accused of horse-stealing. Conducted by his captors a little distance from the road, Murphy was gently elevated in the attitude of intended strangulation three several times for the purpose of enforcing a confession as to who were his accomplices. But Joseph told nothing, and so was handed back to the officer, who had been meanwhile guarded by members of the party.

At Santa Cruz, the 3d of May 1877, from the cross-beams of the upper San Lorenzo bridge, within three hundred yards of the spot where he was born, at the age of twenty-one José Chamalis was hanged by about forty masked men. Francisco Arias, born near Pescadero thirty-eight years previous, was executed at the same time and place. The two men had been arrested a short time before for the murder of De Forest, and had confessed the crime. Chamalis had served a term of three years in the state-prison for the robbery of a widow named Rodriguez. Arias had served the same time for the murder of a sheep-herder in San Luis Obispo, and two years for robbing the house of P. Murphy of Watsonville. The two jail-birds were then free. The circus coming to Santa Cruz, they desired to see it; during their long residence at San Quentin they had not enjoyed a single evening's amusement of that character. But they had no money.

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"Never mind," said Arias, "we will get some." So De Forest coming along, Arias fired at him; but failing to bring him down, he fired again, this time with fatal success. Eight dollars were secured by this achievement, and the now happy pair went to the circus, and no doubt enjoyed it hugely.

All which doubtless was very exasperating to the neighbors and friends of the slain man and to the people of Santa Cruz. For circus-money to kill an unoffending man while quietly walking the road, and then almost to boast of it, exhibited a human depravity of lower depths than language can reach. The men should die, and quickly; of that there could be but one opinion. But the Santa Cruz of 1877 was not the Santa Cruz of 1853. Either we must have laws and obey them, else not. If the friends of De Forest may break into jail and hang two very bad men who are surely guilty, and so save the state much trouble and money, may not the friends of the next man slain seize and execute the slayer, when it was not sure he was deserving of death?

The necessity for forty men to blacken their faces, secure the jailer, break open the prison, seize two prisoners, place them in a wagon, drive them to a place of execution, halter their necks to a beam, and then drive the wagon from under them, was no more necessary at this time in the quiet and respectable young city of Santa Cruz than in San Francisco, Boston, or London. In the one place, as in the others, the prison was secure, the officers faithful, and the judges just. There was no shadow of excuse for passionate summary execution. In the annals of punishment upon this coast I have not met an instance so utterly inexcusable. There are many more brutal and unjust, but none so uncalled for. What these forty men did was simply this: They defied righteous law, brought competent justice-dealing courts into contempt, and committed murder. Life and property are little less secure in the midst of a rabble ready to avenge one crime by

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committing another than in a society where every man is his own judge and executioner.

Good men will always lament the unnecessary resorting to popular means for the punishment of crime. The duty popularly to punish crime in the absence of adequate government has not been usually a pleasant one. Gladly did the people here welcome good government when it came; gladly, as a rule, did they leave punishment to the law when the law was honest and capable. When it was not, it is my pride to say they were not slow to detect it; they were not slow to see, to think, to act. Of one thing we may be sure, namely, that no more in the Pacific States than elsewhere in America is there a disposition to administer popular justice. For every case in California, like this of Santa Cruz, during the last decade we might cite ten elsewhere: like the hanging of Stevens and Andrews at Warrensburg, Missouri, the 21st of May 1867; and that of Kennedy and others at Wyoming; and Evans, Hall, and White in Alabama; or even the threatened organization of a vigilance committee in our federal capital.

"I feel devilish and must kill somebody!" exclaimed Justin Arajo as he sat in a store at San Juan, Monterey County, about noon the 12th of July 1877. Going to the door he saw some one standing by the post-office. "That man's my meat," he said, and drawing his pistol, shot him through the breast, killing him instantly. Arajo then attempted to fly, but was caught and incarcerated. Manuel Butron was the name of the victim. As night came on, sleepy justice aroused itself and shook out its musty robes. About one o'clock masked men overpowered the jailer, took from him the key, entered the prison, and taking the villain to a willow-tree on the alameda did him to death. Never again will Justin Arajo feel devilish in this world; he is now where he may enjoy devilishness in a world without end.

Christopher Mutchler attempted to fire Hagermann's

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saloon in Germantown, Colusa County, on the night of April 30, 1878, and while so engaged received three shots in the thigh from persons then in the house. The incendiary was arrested, but no one appearing against him he was discharged. Fearing violence from the citizens, who threatened him, Mutchler attempted to leave town, but found exit barred, even the stage men refusing to carry him. Nevertheless he managed to drive away in a private conveyance during the night, but was soon arrested and brought back on charge of having threatened the life of J. Kelley. Not long after, fourteen masked men entered the place where Mutchler was confined, dragged him into the street, and shot him to death. Mutchler had money; the prosecuting attorney had none; the judge had but little. After an interview with the incendiary, on his first arrest, the prosecuting attorney declared there was no case, and the judge discharged the prisoner; then the prosecuting attorney absconded and the judge resigned.

Thus we see how the work goes on, even to the present day; and we may be very sure it will continue until law courts cease to be but a mockery of justice.

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CHAPTER XXXI.

THE DOWNIEVILLE TRAGEDY.

Souls made of fire, and children of the sun,
With whom revenge is virtue.

Young.

It was a rare thing in California, extremely rare, for rough men to lay their hands upon a woman. About the only sentiment of youthful memories which with time and distance had not only remained but had become softly intensified, was that of home hallowed by the tender influence of mother, sister, or that nearer, sweet other self, wife. So woven among the fibres of the heart was it, so mingled with the sensuous blood, so wrapped within the folds of passionate imagination, that, like ash-covered coals, the drearier the aspect without, the warmer glowed the fire within.

They could cut each other with knives—these miners, riddle enemy or friend with bullets and smile at it; they could strangle a sluice-box thief, snap the neck of a Chinaman by a twist of his pigtail, whet their appetite for breakfast by the butchery of a ranchería of natives, but injure a child, ill-treat an old man, or do violence to woman, they could not.

They were men, every inch of them men—coarse and brutal in some respects, but still men. They could do wickedness by the cañonful, but it must be manly wickedness done in a manly way.

Woman was their weak point; the memory of woman the only thing mellow about them. Since the day when chivalry lifted her from feudalistic abase-

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ment, endowed her with charms and graces human and divine, fought for her on the fields of knight-errantry, and adored her as the immaculate mother of God, woman has not been so idolized.

A woman to a mining-camp brought the odor of Araby, brought the sunshine of Eden. The atmosphere was mellowed by her influence; the birds sang sweeter for her coming, the ground was softer to sleep on, the pick was lighter, and whiskey less magnetic. Fair was the form of her, radiant her presence, thrilling her touch. Her dress was as the drapery which shrouded the mysterious holy of holies, and sacred was the hem of her garment.

It mattered not so much to them who or what she was; she might be chaste and fair or as wicked as Jezebel, she was the impersonation of their fancy-ridden brain, the expression of their innermost ideal of the beautiful and good. Possessed in all things else of physical affinity with debasement, the thought of her was the sister of their solitude. Open their hearts, and there amidst the débris of a thousand crushed longings her image alone remained unbroken.

Then wild indeed must be the fury that maddened them against a woman; and never was insensate wrath more manifest than among the miners of the Yuba for miles on either side of Downieville when, on the morning of July 5, 1851, it was known that a comrade had been slain, butchered with a long sharp knife, and by a woman. The matter of sex was suddenly lost sight of, swallowed in the gulp of passion which left nothing to the mind but the abominable bloody fact.

Joe Cannon killed! Cut to the heart, and by a woman! The words were confusing. The breath that uttered them came labored; thick it was, and murky in its significance. The blood, receding from the heart, clogged in the veins, and respiration was well nigh throttled by the messengers of the brain. Joe was the favorite of the camp, the finest fellow that ever

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swung a pick or dislodged a bowlder. He was over six feet high, straight as a poplar, with limbs as clean as those of a newly barked madroño. In weight he fell not far short of two hundred and forty, and it was all muscle; his chest was like that of an ox, and the arms of Hercules hung from his shoulders. And yet he would not harm a fly; his heart was as tender as his sinews were tough. Joe gone! Stabbed to death, and by a woman!

He was the soul of honor, was Joe Cannon. He knew not the meaning of the words cheating and chicanery. He was not very learned; single and simple were his thoughts, and double-dealing found no place in his accounts. He liked his occasional frolics. The strongest need a respite; one cannot always work; but though he could laugh and carouse with the best of them, he was kinder in his cups, if possible, than out of them. There was no poison in his heart that the most fiery liquid could bring to the surface. In nobleness only he was a giant; in guile he was a child. Joe Cannon dead! Stabbed in the breast, and by a woman!

Slowly as with its fullest force the fact was realized, at last it settled on them that it was true; and from the friction of the ebb and flow of heart and brain tides there sprang a heat which, increasing with the whirl of thought, glowed all the fiercer from being smothered beneath stifled emotions.

All along the muddy Yuba, and up its muddy tributaries, the accursed tidings sped like an electric message, telegraphed from claim to claim, until for miles round Downieville were heard the cries of "Murder!" "Joe Cannon killed!" "Cut to the heart by a woman!" Then dropped pick, pan, and shovel as from palsied hands; water was left to run to waste, and the gold unwatched in the bottom of the sluice-boxes; and from up and down the muddy Yuba, and down its muddy tributaries, streams set in, streams of angry miners, silently flowing, though hot with melted emotions.

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Five thousand men and more gathered in Downieville that day. Thronging the streets were traders, packers, and prospectors, gamblers, prostitutes, and politicians, professional rascals and rascally professional men, besides the miners from the thickly studded line of claims that mutilated the river beds, and banks, and gulches all up and down the foothills.

At ten o'clock the deed was done, and at eleven, surrounding an unfinished tenement of split-boards into which the unfortunate man was carried when stricken, was a dense throng. Within, just where he was first laid on a slightly sloping puncheon floor, lay the dead miner. No, not yet quite dead; life seems loath to leave a mechanism so perfect and of such fair proportions. The breath comes light and fitful, though from strong lungs still struggling to perform their functions. A broad stream of blood has clotted for itself a channel from the breast to the extremity of the floor. Standing round the prostrate form were half a score of miners fresh from their work, with their woollen shirt-sleeves rolled up above the elbows, and their overalls tucked into the tops of their ponderous and muddy boots; silently and solemnly they stand with their grizzly heads uncovered and slightly bowed, while round the contracted brow and compressed lips sorrow and anger struggle for the mastery.

Silence within and silence without, until at length the slaughtered miner ceased to breathe; then from the deep stillness there rose a murmur, at the first almost as faint as had been the dead man's breath, but gradually increasing into a low deep buzz, which every border man in an angry multitude instantly recognizes as significant of blood. Expressive to the last degree and deadly ominous is that sound, coming as it does from a silent multitude, breathing an unspoken vengeance more terrible than the loudest trumpetings of passion.

Soon men began to speak in words. Fresh arrivals came pouring in. Strangers asked, Who is he? Who

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killed him? Where is the murderer? Presently the centre of the mass from standing groups and purposeless indirection began to surge in a definite direction, signifying all too plainly that it was time for some one to prepare for a sudden and decisive change. Pregnant enough with purpose were now the miners. You could see it in their eye, in their step, in the movement of the hand; their pipes smoked of sulphur, and with their tobacco-juice they spat fire. Most significant of all, however, was the almost silent buzz, which was the low purring of the blood-thirsty beast about to spring upon its prey.

It was a little woman; young, too—only twenty-four. Scarcely five feet in height, with a slender symmetrical figure, agile and extremely graceful in her movements, with soft skin of olive hue, long black hair, and dark, deep, lustrous eyes, opening like a window to the fagot-flames which, kindled with love or hate, shone brightly from within. Mexico was her country; her blood Spanish, diluted with the aboriginal American. Her name was Juanita. The man she killed, with one hand could have picked her up and tossed her into the Yuba River. He was an Englishman and an Australian colonist, but not a man of Sydney in the sense then current.

Though a stalwart Britisher, yet he could not let pass the immortal Fourth without assisting at its observances. True, it was not a memorial of his country's greatness; but while the Yankee celebrated America's successes might he not join him and celebrate England's defeat? Why should we call to mind our glorious gains and not our no less valuable losses? The lesson was profitable to England, and surely her Australian colonist might properly acknowledge it. Though in truth Joe Cannon thought more of the potation part of the performance than of the patriotic. Any day was Fourth of July to him and worthy celebration in which his comrades would turn out and carouse in company.

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And this time they had made a glorious night of it. Joe Cannon, with the rest of them, was very drunk, and consequently very happy. From store to store, from house to house, up and down the streets and through all the streets they went, rapping up the inmates, compelling the master of the house to treat and then to join them. It was rare fun.

Passing the premises of a Mexican monte-dealer, Joe Cannon kicked at the door. As he was not in condition to stand steadily on one foot and carefully to weigh the force of the other as it went against the door, he may have given it a little harder blow than he intended or than was necessary. As the door was secured only by leathern hinges, it fell in. At least so the boys told him next morning—that he had kicked in the Mexican's door.

That was all right, said Joe. He knew the monte-dealer well, and had often bet an ounce or two in passing his table; the damage could not be great; he would go around after breakfast, pay it, and apologize. True, there was the wife, or she whom the man lived with as with wife: she might not perhaps appreciate the foreign patriotism which so disturbed rest—but she was a bashful, retiring little thing; no one thought of her. Besides, they were Mexicans, and their footing was not by any means too secure in the community as it was. A man, a miner, a big burly favorite, what were fifty Mexican gamblers and their mistresses to him? Nevertheless no man should be able truthfully to say that Joe Cannon ever did him wrong, drunk or sober.

Approaching the house, Joe found the door still down. The Mexican was within; and placing a hand on either door-post to steady himself withal, for his head seemed now as big as a barrel, and his legs were a little shaky, he began talking to the man in broken Spanish as best he could. Suddenly from a corner where she had lain concealed, quick as a flash the little woman sprang up, threw herself upon the strong

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man's breast, and buried her knife in his bosom. It was all done in an instant, and he who had come to make reparation for a trivial injury committed in a moment of frolic, he, the picture of physical perfection, the pride of the camp, lay as dead.

Why did she do it? Did this man visit her house to insult her? Had they ever met or had intercourse at any time; and was there ill-will existing on either side? No one knew. Who shall fathom a woman's heart? All those miners knew or cared to know was that for so slight a thing as she it was a monstrous blow. The bowie-knife was large and sharp, and to send it into his gigantic frame, through his shirt and through the breast-bone clear into the heart, that little arm must indeed have been tempered by most murderous passion.

And now, when the enraged miners with a blow of the fist burst her door and stood before her, Juanita manifested not the slightest fear; and yet she knew that she must die. It was not defiance, nor brazen impudence; she assumed no character—she acted only the primary sentiment of her nature, and that was stoical submission to inexorable fate, or more simply, cool courage.

She knew that she must die, and there was an end of it. Within range of pistol-shot were two thousand men, each one of whom, if standing alone, harbored that moment determined purpose sufficient to insure her death, and she knew it; the very certainty of the result seemed to disarm death of its sting. Every one of the vengeful two thousand now arrayed against her would soon die; she must go now. Well! will any one of them have a more gorgeous exit hence than she?

Hastily putting in place some scattered articles, and glancing carefully at her dress—she was already attired in her best—she signified her readiness to go. The blaze of angry eyes, the forest of frowning faces through which blew deadly murmurings, were all

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lost on her; she was thinking of her own affairs, thinking should she send something to her friends, thinking about her household, and how her husband would do in her absence. Of course they would hang her; as for the paraphernalia of trial it might be some gratification to them, but it was nothing to her.

There yet stood near the centre of the town a large pavilion, which had been erected for the celebration ceremonies the day before; there was a raised platform, with chairs and table, just the place for the occasion, and there the dark-eyed bashful little murderess was conducted by her guard of two thousand.

Twelve men responded eagerly to the call for a jury; happy he who should have any part in this gentle strangulation. Glancing at each other and at the miners round them, they seemed to say, "All is safe and settled; woman or no woman, she hangs." Lawyers for the defence were backward in presenting themselves; there were plenty for the prosecution.

Probably in the history of mobs there never was a form of trial more farcical than this. Had they hanged the woman immediately, our respect would be greater than when we see a criminal so absolutely and universally prejudged and sentenced before trial. Never have I met an instance where so many men, or a tenth of them, were so thoroughly ravenous in their revenge. It was wholly unlike them. It seemed that on the instant they had not only thrown aside their usual chivalrous adoration of sex, but that now they would wreak their relentless disaffection on the object of their abhorrence in proportion to their strength and her weakness.

That there was so little of this little woman to pulverize and scatter seemed to exasperate them. A humane physician, Dr Cyrus D. Aiken, mounted the stand and testified that she was not in a fit condition to be hanged. What such testimony had to do with the case nobody knew or cared. A howl of disapproval followed; the good doctor was driven from the

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stand, driven from the town, and dared not return or show himself for several days. A Mr Thayer of Nevada attempted a speech on behalf of the prisoner, as there was not a lawyer who had the courage to stem the tide of unpopularity in her defence, but he was beaten off the platform—ay, kicked from the tribunal; and on reaching the crowd without, where a passage-way was opened for him, he was kicked along this gauntlet out of town, being glad to get across the river with his hat and mule behind him.

John B. Weller, then running for congress, was at the hotel overlooking the tribunal. He was besought to go out and speak to the mob, but he had no ambition that way. He was not of the stuff of which martyrs were made. There were times and places for all things: a time for advocating law and order, and a time for refraining from such advocation; and clearly this, in the eyes of John B. Weller, country-server, was one of the latter times.

So Juanita was tried; but the trial was a sad, one-sided affair, in which there was a total absence of that love of fair-play so characteristic of the American miner. No one dared to say a good word for her; no one was allowed to defend her. In so far as she was small and weak, and they were many, and great, and strong, in so far did their insensate fury intensify with the progress of affairs. For the moment the men of that region seemed baptized by Satan for the execution of a work of infernal grace.

When the verdict was formally declared, Juanita gave a quiet little laugh, as if to say, How droll! These great American men think in this aping of ancient forms they have given their prisoner a trial. Stroke conscience the right way and you can do anything with it.

In the four hours allowed her before her execution, Juanita made her will verbally, arranged her affairs, and gave her few effects away. During it all her heroism carried her far beyond the usual stolid forti-

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tude of her race. At a time when men tremble and pray she was her natural self, neither gay nor sad. She was as far from looking lightly on the matter as giving way to senseless sorrow.

The builder of the bridge that spanned the Yuba had left at about the middle of it two uprights with a beam across, as if for the express purpose of hanging. It was just the place for the occasion, though from that point, with the flowing river underneath, and on either side with the rolling hills in front, and in the background the purple-misted mountains glowing in the light of the almighty sun, it was too beautiful a world for a young, free, light-hearted woman to wish to leave.

With a light elastic step, surrounded by her friends, chatting with them quietly on the way, Juanita walked down to the bridge. She shook hands with them all, but not a tear, not a tremor was visible. By means of a step-ladder she mounted to a scantling which had been tied for her to stand on between the uprights underneath the beam, took from her head a man's hat which had been kindly placed there by a friend, shied it with unerring accuracy to its owner, meanwhile smiling her thanks, then with quick dexterity she twisted up her long black tresses, smoothed her dress, placed the noose over her head and arranged the rope in a proper manner, and finally, lifting her hands, which she refused to have tied, exclaimed, *Adios, señores!* and the fatal signal was given.

The Downieville Vigilance Committee was not organized until after this affair, as the following letter indicates:

"DOWNIEVILLE, July 27, 1851.

"*To the Vigilance Committee of San Francisco:*—

"GENTLEMEN: The citizens of this place have organized a vigilance committee for the purpose of protecting life and property. At one of their meetings they passed a resolution instructing me as their corresponding secretary to communicate with the vigilance committee of your city, with the view of eliciting what information you may be disposed to favor us with in furtherance of the object we have in view. It is thought by keeping up a commu-

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nication between the committees of the different points we might be of mutual assistance, by keeping each other advised of the movements of noted and suspicious characters. Any information, therefore, you may be so kind as to favor us with upon this subject will be both thankfully received and reciprocated by us. Our organization is quite complete, and we design to keep our doings a secret, except such as are from the nature of the case public. Therefore if you communicate with the committee of this place, please address your letters to me in my private capacity.

"I remain, gentlemen, your humble servant,

"A. M. BROCKELBANK."

Commenting on this tragedy, the Sacramento *Times and Transcript* says:

"The act for which the victim suffered was one entirely justifiable under the provocation. She had stabbed a man who had persisted in making a disturbance in her house and had greatly outraged her rights. The violent proceedings of an indignant and excited mob, led on by the enemies of the unfortunate woman, were a blot upon the history of the state. Had she committed a crime of a really heinous character, a real American would have revolted at such a course as was pursued toward this friendless and unprotected foreigner. We had hoped the story was fabricated. As it is, the perpetrators of the deed have shown themselves and their race."

This editor goes far out of his way both to distort the facts and then to draw from them false conclusions. The woman was not a friendless foreigner, nor was her act justifiable. The man she murdered offered her no violence, and she had no right to kill him. The people were right to hang her, but they were wrong to do it madly and in the heat of passion.

But bad as were the miners of Downieville in their dealings with criminals, they were not so bad as the average San Francisco jury. I say far above the action of the law in a noted female-murder case which the San Francisco courts bungled nearly twenty years later, is the course of the Downieville miners to be excused. The cases are only partly parallel. In both the slayers were women; but one killed a man because he invaded her home, and the other because he preferred his own wife before her. One was actuated by revenge, the other by jealousy; one slew her victim because he had treated her ill, the other

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because he had treated her well. One killed a miner, and the miners hanged her; the other killed a lawyer, and the law let her go free.

If before this California, or the world, needed further evidence of the eccentricities of law, the trial of Laura D. Fair for the murder of A. P. Crittenden offers ample illustration.

Married at the age of sixteen to a Mr Stone, within a year she was a widow; next for six months her husband was Thomas Grayson, who freed himself by divorce; then she married William D. Fair, who in 1861 was said to have committed suicide. At Sacramento Mrs Fair kept a lodging-house for a time; afterward she appeared upon the stage at various times in Sacramento and San Francisco. With the discovery of silver in Nevada, she went to Virginia City and there kept the Tahoe House, where in September 1863 Mr Crittenden took rooms. The acquaintance there formed soon ripened into *quasi* affection.

Arrested for threatening to shoot her partner while placing the national flag upon the hotel, Mr Crittenden defended her. Subsequently she married one Snyder, but was in less than two months divorced. Before and after this marriage she was on intimate terms with Crittenden, and their intimacy was by no means private. At the time of the murder Mrs Fair was about thirty-five years of age. She was a woman of extraordinary aptitude, with sufficient acquirements to make dangerous her attractions; in the eyes of some she was even beautiful.

Among the talented and cultivated of California, none ranked higher than Mr Crittenden. The law firm Crittenden and Wilson, of which he was senior member, was prominent among the few called first in the profession. He was a graduate at West Point, nephew of John J. Crittenden, United States senator from Kentucky, and brother-in-law of Tod Robinson, supreme court reporter. He was no less gentlemanly, generous, warm-hearted, and honorable than he was

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able and distinguished. He was the husband of an amiable, loving, and accomplished wife, and the father of an interesting and intelligent family. He was about fifty-eight years of age at the time of his death.

The nature of this anomalous attachment was, on the part of Mr Crittenden, a strange infatuation rather than reasonable affection. All the while he loved and respected his wife; all the while she loved and respected him; all the while he was a father to his children, protecting them, guiding them, loving them. During a part of the seven years of this unholy intimacy Mr Crittenden's family were at the east, but the family relations were never severed. While sensuous fancy obscured the path of duteous decency and made him wanton for a while, his true self was then, as ever, with the right.

In speaking thus I do not mean in any way to mitigate his wickedness or gloss his insane folly. When an amiable, intellectual, chivalrous gentleman so far forgets his duty to himself, his family, and to society as to descend into the depths and there wallow in swinish lust, tenfold more condemnation is his due than merits one less favored. Nor would I throw the blame upon his paramour. Though she played never so cunningly by her seductive charms upon his impressionable nature, it was no excuse for him; if the low, the poor, and the unfortunate may not plead temptation in mitigation of their crimes, surely the more favored of fortune should not be permitted to do so. As to relative blame, in this case as in most cases, the fault was more the man's than the woman's. That she, a notorious woman of the world, should strain her soul to win him, is less abhorrent to our sense of morality than for him, for her embrace, to descend from his high station, besmear his fair name, and cruelly crush the hearts of loving wife and children. Were she as mad with love for him as Dido for Æneas, or Cleopatra for Antony, the fall beneath her fascinations opened to his view, and to

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that of his friends, a weak, gross, baneful streak in an otherwise spotless character.

Returning somewhat to reason after this long indulgence of his baser self, Mr Crittenden resolved to sever his connection with the siren, and sent for his family. The evening of their arrival, which was the 3d of November 1870, he crossed the bay upon the Oakland ferry-boat to meet them. On their return, while seated outside the cabin between his wife and daughter, Mrs Fair, closely veiled, approached him, and drawing a pistol fired, the ball penetrating the left breast. Supported by Mrs Crittenden, he dropped back in his seat and gradually sank to the floor. Dropping the pistol, a four-barrelled Sharp shooter, Mrs Fair hurried into the cabin and mingled with the other passengers. Parker Crittenden, a son, with a policeman who happened to be on board, went in search of her. They soon found her, when the son said, "That is the woman; I accuse you of murdering my father." The woman answered, "Yes, I don't deny it. I admit that I shot him; I don't deny it. He has ruined me and my child. I was looking for the clerk to give myself up. Take me. Arrest me; I am ready to go with you." Mr Crittenden lingered for three days, when he died. Mrs Fair was in apparent delirium for several days.

In due time the trial was begun. Mrs Fair, pale and weak, appeared in court arrayed in black silk and veiled, accompanied by her mother and daughter, a beautiful child of nine years. Having abundant means at her command, two expert criminal lawyers were engaged, and seated in a rocking-chair between them, and attended by her physician, the prisoner took an active interest in the proceedings. To the charge of murder the accused pleaded "Not guilty," and set up in defence insanity.

For thirty days the jury were kept together, and forty minutes after the case was submitted to them they returned with a verdict of "Guilty of murder in

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the first degree." A motion for a new trial on the ground of incompetency of jurors and for other reasons was carried to the supreme court and granted. At the second trial the prisoner was acquitted on the ground of insanity and given her liberty.

Many years have now elapsed since this discharge, during which time Mrs Fair has often appeared upon the streets of San Francisco apparently no more insane than others who have not killed their man. She does not claim to have been insane long before the killing nor long after. Just how much woman's love and woman's hate, fired by alchemic passion into the metal jealousy, is sufficient to place the female mind outside itself let doctors and lawyers determine. But to discuss the question is idle in the extreme. No unbiassed mind of average intelligence for a moment doubted that this woman was guilty of the crime of murder, such as that for which the law intended those committing it should die. The people were disappointed, indignant, that the tigress should be let loose upon them; but patient and plodding as they are, they were now becoming accustomed to unquestioning obedience. Nevertheless they could but feel humiliated under the issue of the affair. Yet there is nothing uncommon about it; with numberless quibbles and technicalities interposing between crime and punishment, with a profession whose members glory in their dexterity in clearing the guilty, with judges so blindly bound to form as to be senselessly indifferent to the righteousness of a cause, and with juries composed of men picked indiscriminately from shops and warehouses, whose minds are unaccustomed to weighing evidence, and who are easily swayed by their sympathies and influenced by their prejudices, we must expect that as a rule the guilty poor only will be punished while the money of the rich buys pardon. Every appearance of this woman upon the street is a commentary on the injustice and incompetency of our judicial system.

When little Laura was in short dresses and playing

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with her dolls in Mississippi, being then twelve years of age, William D. Fair and A. P. Crittenden were sitting together in the same legislature, being the first in California. One killed himself and the other she killed. Broderick, murdered duellistically by Terry, was also a member of this legislature. Lightly laughs Satan: innocence, legislation, law, and suicide; woman, law, and murder; lightly dances Satan!

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CHAPTER XXXII.

THE POPULAR TRIBUNALS OF UTAH AND NEVADA.

> Mark what unvaried laws preserve each state,
> Laws wise as nature, and as fix'd as fate.
> In vain thy reason finer webs shall draw,
> Entangle justice in her net of law,
> And right, too rigid, harden into wrong,
> Still for the strong too weak, the weak too strong.
>
> *Pope.*

WERE any ever disposed to praise the Mormons, or in any wise to do them justice, then might the lovers of law and order, the opposers of the vigilance principle, give them credit for living without mobs, without any popular, or legal, or other tribunal save those simple forms which lead with the least possible time and cost to justice. Did the advocate of vigilance reform desire to praise them, he might point to the fact that here existed a society in which the regretted necessity was wanting. How they dealt with their enemies, the enemies of their religion, is another matter. We do ours all the injury we can, and that while the false prayer is on our lips that God will bless them.

In Carson Valley, near the Carson River, on the Deseret road, the bodies of six persons, supposed to have been murdered by banditti, were exhumed in the autumn of 1851; concerning which Mr James F. Tyffe thus writes to the Sacramento *Times and Transcript:*

"My own observations, while over in the valley with the mounted men in July and August, with the information obtained from the settlers, led me to coincide with the opinion expressed by the emigrants, viz.: that there is a band of lawless and desperate men in Carson Valley, and the citizens, in petitioning the governor for a small mounted force for protection, had an eye to these gentry, although nothing at that time could be proved of sufficient importance to warrant their arrest."

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Lucky Bill was a good fellow if he was a villain, and everybody liked him. He owned in 1855 one of the best farms in Carson Valley. Other fine tracts of land he owned elsewhere, besides great herds of cattle; indeed Lucky Bill for the time and place was rich. But like many another to whom wealth has brought from friends and neighbors no additional respect, as Lucky Bill's riches increased, his reputation for honesty and integrity diminished. Like many another who having achieved a reputation for superior ability or skill spoils it all by some act of insensate folly, so Lucky Bill after enjoying a long career of the most fortunate good fortune, which secured him home, family, friends, and every comfort, dissipated all by one, to him, most unlucky deed. Many of his practices were looked upon as somewhat more than sharp, among which to buy stolen cattle, and to appropriate all straggling stock upon which he could lay his hand, were among the least.

Murad the Unlucky fancied all the world against him; Saladin the Lucky grew in self-confidence through the inspiration of his name. So it was with wicked William Thorrington, for that was Lucky Bill's true name; successful in little villainies, he undertook greater ones, until he grew so bold in his unlawful acts that sad grief at last overtook him. During his palmy days, surrounded by wife, and children, and friends, there were none so happy and jovial as he. His little irregularities he regarded as good jokes, and often recounted the story of a trick played on some passing emigrant by which he had gained a wagon and its contents, or a fine horse, or several yokes of cattle, with the same apparent satisfaction a soldier tells of his shootings. And as the man kept open house and was by no means niggardly with the property he had taken from others, it was a long time before his neighbors would allow themselves to be worried by disparaging rumors concerning him. At last, however, his avarice so far acquired the ascendancy as to

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lead him into the commission of a most horrible and inexcusable crime. It happened that in this year 1855 a Frenchman was herding Californian cattle at the Truckee River. Thorrington had plenty of good grazing land, and coveted the cattle, but the Frenchman wanted some compensation for them, and Lucky Bill never paid for that which could be more easily obtained by stratagem or crime. There are many lucky Bills about; lucky in that they escape hanging, as Lucky Bill Thorrington did not.

There was a friend of Thorrington's, one Edwards, who likewise wanted the cattle, and who had visited the Frenchman for the purpose of buying him out, but as they could not agree upon the price the effort was unsuccessful. Edwards often stopped at Thorrington's house; and one day during a conversation on the subject, Thorrington coolly proposed that they should kill the Frenchman and divide the spoils. Edwards consented. Again visiting the Frenchman, on some plausible pretext he decoyed him some distance from his camp, and then shot him and hid the body. A forged bill of sale made Edwards the apparent owner of everything, and the Frenchman's property was duly divided by the conspirators. Lucky as ever, thought Bill, as the time passed quietly by after this last adroitly managed affair. But the evil-minded are never permanently lucky. Even if they confine their rascalities within the limits of the law and so escape legal punishment, that for which they sell their souls, ease, gratified ambition, happiness, they never get. The devil is a shrewd paymaster, feeding forever his devotees on the passions which first brought them into his service. The Frenchman's friends in California, neither seeing nor hearing from him for so long, feared some evil had befallen him, and instituted investigations which led to the finding of the body and the discovery of the foul play attending the Frenchman's death. The settlers were aroused. Forming themselves into a committee of vigilance, they ar-

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rested Thorrington, his accomplice having escaped; then electing officers and organizing a tribunal, they tried the prisoner, convicted him of murder, and sentenced him to be hanged. Unlucky Bill.

Meanwhile the Vigilance Committee earnestly desired to secure Edwards, and most villainously did they undertake its accomplishment. The man Thorrington had a son, a bright, frank, honest lad of sixteen years, who little knew how bad his father was. It was thought that he, as well as his father, knew where Edwards lay concealed, and that by promising the boy his father's life the other felon might likewise be brought to justice. It was a hazardous undertaking; Edwards was a powerful, well armed, desperate man; even settlers feared to attack him in his retreat, and the boy was not only to discover to them the criminal, but to bring him out and lead him into a trap where they could catch him. That they were a cowardly set I do not deny; but that was not the extent of their baseness. It was a desperate undertaking; Edwards was almost sure to suspect treachery, and that suspicion would cost the boy his life, for the man, already doomed, would not hesitate a moment to slay one who knew and would divulge his hiding-place. But what would not a noble, high-spirited lad do to save a father's life, a father unjustly condemned, as the boy was made to believe, and for another's crime?

At night, alone, behind the mountains which rise west of Genoa, young Thorrington went to a secluded cañon where the murderer lay concealed. Edwards did not know that Thorrington had been captured, and this fact the boy kept carefully to himself. He said his father, hotly hunted, desired to see him at a certain house to concert measures for the safety of both. From the first, Edwards seemed to feel that all was not right; whether it was the boy's too eager manner, whose father's fate one unweighed word of his might sadly mar, or whatsoever it was, there appeared to Edwards an air of unreality about it that

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made him hesitate. At first he flatly refused to go; said that each could take better care of himself apart from the other; that there was nothing to be gained in being together, and much to lose. But when the boy calmed, and, made discreet beyond his years by the burden of a father's life, reasoned with him, begged him at least to see his father, assuring him that nothing ill could come of it, he finally yielded, at the same time saying to the boy if he played him false his life should surely be forfeit. Concealed in a herdsman's hut near the forks of Carson River, on a lonely rancho owned by Thorrington, the party of settlers awaited the murderer, and thither from his covert the boy conducted him. It was long after midnight when they drew near the place, Edwards advancing along cautiously with his gun raised, and other arms in readiness, watching narrowly every movement of the boy, who marched silently before him. On reaching the house he beckoned young Thorrington back, and stepping to the door listened attentively for a moment, then cautiously opened it. Darkness and death-silence were within; but this was nothing strange, as Thorrington would hardly dare to burn a light in one of his own houses, even in this lonely distant one, when justice was so hounding him. He would enter; he was not afraid. Scarcely had his foot crossed the threshold when thud! a powerful blow from an unseen hand felled him to the floor, and the vigilants were upon him. Bound by his captors, he was taken before the same tribunal that doomed to death Thorrington, and there in like manner was tried and found guilty. It was almost always a question in a new community how the first death-sentence should be carried into effect. Simple-minded well meaning settlers are loath to turn hangmen; nevertheless necessity often imposes unwelcome burdens. In this instance there was much diversity of opinion on the subject. Some were in favor of finding, if possible, a shadow of law and there laying the condemned; others thought that the promise

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given to the boy should be strictly observed; others were in favor of summary and immediate execution. These last outnumbered the rest; and at Clear Creek Rancho, with a coolness and courage worthy a better cause, the two men met their fate. But what shall we say of those conscienceless men who, to accomplish their purpose, so cruelly played upon the most sacred affections? Poor boy! what teachings would so make him a child of hell as the treacheries of these self-constituted examples of good citizenship. For myself, I would almost as lief have the father's sin upon my soul as this vile meanness of the son's deceivers.

Prior to 1862 Carson Valley had for some time served as a hiding-place for stock stolen in California. Remote and practically inaccessible to sufferers by these depredations, it afforded a safe retreat. After recruiting in this valley, the stock was driven to Utah or sold to emigrants. From cattle-stealing to the robbing of emigrant trains and overland stages was but a step. Gradually the valleys round Carson City were occupied by respectable settlers, who regarded these outrages with disfavor. But so strong at that time was the impure element, that out of this action of the reformers grew numberless factions, which kept those valleys in constant turmoil, often attended by personal encounters and bloody party strifes. Though the action of the Vigilance Committee, an absolute necessity in itself, was productive of the greatest good, active in reprehending criminals, and punishing with coolness, hanging few but banishing many, yet there were there, as in California, those who opposed it, some from principle, some from petty pride, but far more from personal and selfish interest. An anti-vigilance or law and order party was formed, which carried the issue into politics, and did almost as much toward retarding the progress of settlement and clouding the prosperity of the country as the malefactors themselves.

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At Lane and Johnson's rancho, Walker River, some time in the winter of 1855–6, Jim, an Indian boy raised from infancy on the place, killed Johnson because he threatened to whip him if he whipped the sheep. The boy, when he saw what he had done, mounted a horse and fled. Lane with a party started in pursuit, caught the boy in Sierra Valley, and hanged him at Carson River, near Rud Station.

At Williams Station, sixty miles below Genoa, in May 1860 there was an outbreak of the natives, provoked by gross outrages on the part of the superior race, in which four white men lost their lives. It appears that the arbitrary method of redressing injuries is not applicable to savages as to civilized men. When the red man suffers wrong he must go to his great father at Washington and there lodge his complaint, but he must not lift a finger, when attacked, in self-defence. It is a precedent too dangerous for Indian indulgence. Should one dare to do so, white men are justified in exterminating the tribe. It was somewhat so in this instance. Certain of the more humane settlers proposed to visit the outraged tribes, to demand from their chiefs the individuals outraged, and to hang them, for it was these who had committed the crime of retaliation, which privilege belonged only to desperadoes white of skin however black of heart. This surely was punishment enough for these dusky vigilants, one would think; but so did not the silver-seekers. Filled with pitchy wrath, they rose and threw themselves upon these naked defenders of their firesides, and a most unholy and unnecessary three months' war was the consequence.

Midsummer 1860 saw much mischief afloat in and around Carson City. With a scattered population of say seven hundred, there were within a period of six weeks no less than five murders reported. Add to these numberless assaults, shootings, cuttings, and beatings, and the measure of brutality is well filled. In the absence of theatricals, and of the more refined

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representations of life and character, the inhabitants fell back upon their native resources and acted their own tragedies. In the absence of piano, flute, and guitar, mingling with the many-voiced harmonies of nature, the silver-toned brooks, and the concert of birds, were the pistol's gentle click and sharp report, and the shrill laughter or more passionate cries of rageful men.

So remarkable during this carnival of violence was a moment of quiet that people and the press all noticed it. Says the *Territorial Enterprise* of the 16th of June 1860:

"It is noticeable that for the last week we have not had a murder or shooting scrape in our city, while within the same period several desperate and disreputable characters have quietly slipped off to California. On Monday last Judge Cradlebaugh, United States judge for Utah, opened his court; and there are those having causality largely developed who think they can detect in this series of events the relation of cause and effect."

A singular case occurred at Carson City in June 1860. A German couple, Mr and Mrs Hesse, charged one Manuel, a Mexican, with having attempted to break into their house and take their lives. Manuel was arrested and examined before Judge Cradlebaugh, who held him to answer before the proper court. During the examination the woman swore that the Mexican had made improper proposals to her. However this may have been, it was generally believed that the woman was as bad as the man. Yet when immediately upon the close of the examination Mrs Hesse drew from under her shawl a cocked pistol, and placing it against the head of the prisoner fired, causing his instant death, neither judge, sheriff, nor the people made any attempt to arrest her, but permitted her to return to her home in peace, as if she had committed a meritorious act.

In March 1860 the ranchmen of Carson Valley met at Genoa and made pledges of mutual protection. Forebodings of disquiet seemed present in the minds of all. The unsettled titles both to mining and to

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farming lands were the cause of many disputes and bloody affrays; add to this the absence of competent courts and the presence of the very worst element from California and elsewhere, and the outlook for social order was not very encouraging. If the gamblers and desperadoes would confine their shootings and cuttings to their own class no one would complain, but it is contrary to nature for beasts of the same species to prey on each other. Notwithstanding all prognostications, prosperity attended the development of the natural wealth of the territory. Most luckily Virginia City escaped for nearly three years those sweeping conflagrations which with their crushing influences had so often laid young San Francisco in ashes. Several attempts at incendiarism were discovered both before and after the great fire which occurred at Virginia City about the 1st of September 1863, but this fire, it was generally conceded, was the result of accident. At this time where four years before there was a camp amidst the sagebrush consisting of two rude stone houses, and six or eight tents and brush shanties, occupied by a score or two of straggling adventurers, there were now within an area of three miles square twenty thousand inhabitants, with houses, roads, mills, gas and water works, with schools, churches, theatres, and all the concomitants of civilization. But all this time the progress and prosperity of Washoe, as Nevada was then popularly called, was material rather than moral. Of all places on the planet, it was then the paradise of evil-doers, as California had been in her day. From the frequency of assaults, assassinations, and robberies, together with the many minor misdemeanors and suicides, one would think that Washoe Valley had become the world's moral cesspool, the receptacle of prison offal from every quarter. Likewise there assembled were multitudes of political vagrants and pettifoggers such as wait on rascality and derive their sustenance from vagabondage, whose presence in the

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now more refined atmosphere of public sentiment in California was not tolerated as formerly. Bloated dissipation sunned itself upon the street-corners, and lust and lewdness flaunted their gay attire along the thoroughfares. Mingling with the whiskey-stained visages of the dominant race were the black and yellow-skinned element found in every important town upon the Pacific coast; and seasoning the mass with infernal relish was woman of every shade of influence, from distraught wives seeking release from unwelcome bonds, and grass-widows panting for new alliances, to the openly profane and gaudily decked professional. "In fact," says one, "Washoe is now to California what the latter was at one time to all the world beside—a receptacle for the vagrant, the vicious, and the unfortunate, who hasten to find in the excitements and social license incident to frontier life a condition congenial to their perturbed spirits and blasted hopes; and it may be, if indeed there is not reason to believe it will happen, that this country, this coming state of Washoe, when it shall have had the age of her sister California, will be able to boast as much public intelligence and virtue, and to make as fair an historic record as she."

The settlers in Washoe Valley during the winter of 1863–4 felt the necessity of banding and organizing for mutual protection against 'land-jumpers' or squatters on land previously claimed.

Aurora had its Citizens' Protective Union, which assumed the form of a military organization. On the 9th of February 1864, at twelve o'clock, noon, the members formed in line, marched to the county jail, and taking thence four prisoners, charged with the murder of W. R. Johnson a week previous, mounted them upon a scaffold erected in front of Armory Hall. The military, who were one with the Citizens' Protective Union, held the town, and though there was a great concourse of people, the strictest order was preserved. The doomed were then permitted to speak.

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The first, named Buckley, assured his hearers that he and one of the others, Daly, alone were guilty; that McDowell and Masterson, standing there with them, were wholly innocent of the crime. Daly confirmed what Buckley had said. Johnson had killed Daly's partner, and Daly only regretted that there was but one Johnson to kill in return. Masterson simply asserted his innocence. McDowell raved, called heaven to witness his innocence, and warned the people not to do murder by taking his life. He appeared under the influence of liquor, and Daly was, if anything, worse. Just before McDowell was pinioned he bade good-by to all, and then suddenly drawing a derringer and pointing it at his breast he pulled the trigger; but it snapped without exploding, when he dashed it to the ground with a curse. Buckley was cool, brave, respectful, and temperate. In neither speech nor demeanor did he manifest the slightest fear. About half-past one the four men were placed in position, their hands tied and eyes bandaged; the signal-gun was then fired, and earth with its materiality sank beneath four disembodied souls.

It appears that this rich and famous mining district was then infested with desperadoes, who, like noxious vermin, filled the settlements and made rank the air by their presence. For nearly two years a reign of terror had existed, until with the incorporation of the town of Aurora the evil elements organized and entered politics. Filling the offices with their fellows, they had prostituted the law to their own base purposes. The numerous gambling-houses were crowded night and day, and bullets and bowie-knives were constantly opening fresh channels for the flow of blood. The quiet towns-people were almost afraid to appear upon the streets; miners would hurriedly transact their business and hasten away while they were able. Pending the decision of the courts in suits involving title, mining companies had held possession of their claims by the assistance of hired ruffians.

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Life had hung upon a popular will as passionate and capricious as that of the Roman amphitheatre, where a gladiator's fate was decided by the spectators, who, if they desired he should live, held their thumbs down, and if they wished him to be slain, pointed their thumbs upward.

Upon the election of a new marshal adverse to the reign of the roughs, the latter had determined to strike a signal blow; and the murder of Johnson, an orderly and respected gentleman, whose only offence was a conscientious discharge of duty, was perpetrated. Then followed the execution of the four ruffians already mentioned.

The following reasons why Johnson was killed are given by a Carson correspondent of the Virginia City *Union:*

"It will be recollected that about a year ago a man named Sears, while passing on foot by Johnson Station, mounted a horse standing saddled at the door and rode off with him. This was at Wright's bridge, on the west fork of Walker River. The horse belonged to a neighbor of Johnson, a poor man, who deplored his loss severely. A young man named Rodgers, stopping at the station, mounted another animal and went in pursuit of the thief, and overhauling him at the Sweetwater, called on him to halt, threatening, if he did not, to fire on him. Sears, however, instead of stopping, attempted to make good his escape, when Rodgers fired and killed him. The excuse of Rodgers was that he feared Sears might shoot him if he came to close quarters, and that he would get off with the animal if he did not. The killing might be regarded in part as the result of chance, seeing that it was effected with a pistol and the parties were a long way from each other. After the killing Rodgers proceeded at once to Carson and surrendered himself to the authorities, had an examination, and was discharged. He was advised, however, to leave the place, as John Daly had threatened to kill him, Sears having been a friend or companion of the latter. Rodgers thereupon came back to Johnson's. A short time after, Daly and Jack McDowell, *alias* Three-fingered Jack, came to Johnson's and demanded to know where Rodgers was, as they wished to arrest him. Johnson refused to inform them, knowing that they would kill him if they got him in their possession. He told them, however, that he knew where Rodgers was, and that he would inform them if they came authorized with a proper warrant for his arrest. Knowing that they could not procure this, they left in a rage, and have frequently since been known to threaten Johnson for the part he took in befriending Rodgers. In order to allay suspicion, however, they let the affair rest for a whole year; nor does it appear that Johnson was apprised of their purpose or aware of the threats they had made. The day prior to the murder Johnson, it appears, went to Aurora for

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the purpose of disposing of a lot of potatoes, when this gang at once set their wits to work to plan his death in a manner that would be least likely to draw suspicion on themselves. To this end one of their number, affecting a great friendship for Johnson, induced him to take a walk with him, and finally to visit several places about town, in which manner, having kept him up till a late hour, he finally decoyed him into a somewhat obscure locality, where, secreted behind a wood-pile, his companions lay in wait to despatch their unsuspecting victim. Arrived at the spot agreed on, Buckley felled Johnson by a blow over the head with a pistol. John Daley then shot him through the head, when a third one of the party, but whether McDowell, or Masterson, or some other one of the gang, is not known, cut his throat. His pockets having been rifled, he was left lying on the spot where he fell. The assassins then separated, Daly going to a saloon near by, where he shortly after told those present, with affected nonchalance, that there was a man lying in the street dead a little way off, designating the spot. These parties at once suspected that Daly was himself the murderer, or knew something of the matter, and keeping their eye on him, soon after procured his arrest. A fellow known as Italian Jim, who it seems overheard the murder planned, or was in some way privy to it, becoming alarmed, took the stage early in the morning and left in the direction of Carson. Officer Pine having been despatched, overtook the stage at Wellington's, on the West Walker, and conducted him back. Jim, in order to save himself, made a confession, revealing who were the guilty parties and the manner in which the diabolical crime was committed. Corroborating evidence having been obtained, the murder was fastened upon these men beyond any doubt, to say nothing of the confessions of Buckley and Daly."

The Esmeralda *Star* gives the following account of murderer Buckley's capture:

"Buckley fled from the town on Wednesday, the day after the murder. Parker, Gilman, and Fagan had also fled on horseback and gone, as supposed, which afterward proved to be correct, to the Adobe Meadows. Various rumors were flying through the town that Buckley was hid in some one of the many hundreds of tunnels and shafts on Last Chance Hill. A thorough search was made everywhere to find him, but it all proved to be a fruitless task. On Friday evening Sheriff Francis returned to town with Parker, Gilman, and Fagan, who were taken at the Adobe Meadows; from them information was given that a man answering the description of Buckley had passed Mackay's rancho on foot, which is about twelve miles from this place; he had stopped to get a drink of water, but when he saw Parker and his companions riding up he secreted himself, supposing them to be a party sent in pursuit of him. As soon as they had left he started for Mono Lake, and from thence was intending to make his way over the mountains the best way he could. The sheriff, hearing no further tidings of him, left on Saturday morning for the Adobe Meadows, determined if he did not find him there he would go on down to Owensville, whither he supposed he had fled. Captain Teel also went out, taking with him Mr Augustus Lake and John Burns, and went over toward

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Mono Lake, having started one day ahead of Francis. They hunted diligently, riding entirely round Mono Lake on a very dark night, and a portion of the time without any food. The weather was piercing cold, and they came near freezing their ears, hands, and feet. They finally had to stop and build a fire to warm themselves by. They then mounted their horses and hunted a long time during the day for the fugitive, and then returned to town.

"On Monday morning Deputy-sheriff Teel felt confident he could be found, provided Teel had enough men to assist him; and on Monday last, at about eleven o'clock in the forenoon, he started out for Mono Lake with Messrs Lake, Shreves, Dekay, Patterson, Jackson, Staatz, and Joseph Richardson, in company. When they arrived at Mono Lake, on the northern side Captain Teel divided his forces into two parties. He sent Shreves, Jackson, Patterson, and Dekay around the east end, and took with him Richardson, Lake, and Staatz to go around the west end of the lake, and all would arrive at Le Vining's old rancho within about fifteen minutes of each other. The party that went around the east end of the lake rode very fast until they came to Rush Creek, which empties into the lake; they dashed in across the creek and came to Le Vining's old house. The door was open, and the party demanded of the men who were there if they had seen anything of Buckley, and one of them replied, 'He is not here.' The dog belonging to the house kept up a foolish barking, and seemed to be watching something in the sagebrush, and would occasionally make a dash toward it. This attracted the attention of Jackson, and he thought he saw something moving in the sagebrush, and he also thought there was a little chip or something thrown toward the dog to drive him away. He brought his gun to his shoulder and said, 'Patterson, I've got something; let us see what it is.' The rest of them brought their guns to their shoulders and covered the object also, while Patterson went on foot toward it, and when he had got within a few feet of it Buckley rose to his feet and said, 'Boys, you have got me this time,' and immediately surrendered. They brought him to the house, and in about fifteen minutes Deputy-sheriff Teel arrived with his party, they having dismounted a little way off in order to come in on foot and surround the house, expecting to take him that way.

"Remounting their horses, the party all rode back together, passing by the house of Mr Boomershine, who did not expect them until morning, and had made every preparation to greet them with a fine breakfast of wild ducks and geese, and every hospitality he could bestow, but Teel's party arrived too soon for him; but it was not lost, for Sheriff Francis and party arriving at the hour set made it all right. Teel and his party pushed on toward home, and some of their horses gave out, but as a good providence would have it, as they were trudging their way along slowly in the middle of the night a band of horses came up to them; one of the party said 'Whoa!' and they stopped and allowed four of themselves to be saddled and bridled without any difficulty, and the party thus being mounted on fresh horses they were enabled to reach home about five o'clock in the morning of Thursday with their prisoner, who was at once put into the county jail.

"Buckley informed them that when Teel and his party were out the

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first time, during the night he saw their fire and could hear them talk, and when they mounted their horses again they came on so fast that they overtook him, and that he laid down in the sagebrush and came very near being stepped on by Mr Lake's horse. He had travelled around the lake several times, which is about thirty-five miles in circumference, and finding himself closely pursued, he struck out into the open wild sagebrush plain for the Adobe Meadows. On nearing this place he got a glimpse of Sheriff Francis and *posse*, and started back again over this long distance, through this wild sagebrush desert, to the alkaline waters of Mono Lake again, and wandered around its shores, hiding in the sagebrush until almost exhausted. His capture soon followed in the manner above stated, and he was brought to town, declaring that he would rather be hanged than suffer as he had for those last three or four days and nights from hunger and cold; and being worn completely out, he found that escape was impossible, and having suffered so much, quietly submitted to his fate, which explains to a great degree the cause of his cheerfulness and composure when on the scaffold."

The governor, on entering Aurora shortly afterward to inquire into this arbitrary state of affairs, saw the grim framework where the culprits had been executed with the four fatal ropes still dangling from the cross-beam, and turning to the sheriff exclaimed, "Have that devilish machinery immediately removed!" The sheriff hesitated, fearing the power behind the throne; but when the governor threatened to do it himself if he did not, the sheriff mustered the requisite courage and had the gallows taken down. The Aurora *Times* of the 4th of March shows that notwithstanding the return of peace secured by the people's organization, there were those who were restless for them to disband, knowing that to practise the arts of their profession while the watchful eye was on them was not safe. Says that journal:

"The following petition is being circulated through town for signatures. Last evening we saw one list containing over fifty names. The movement shows that there is an opposition to the Citizens' Safety Committee in our midst, to which its protracted session is giving strength. We have no desire to see Aurora declared in a state of insurrection; no wish to have troops sent here. As set forth yesterday, the effect would be most injurious to the interests of the city. If the committee would get through with their business and disband at once, the opposition now manifesting itself would fall to the ground and amount to nothing. The danger of a bloody collision between the officers of the law and the committee, which threatens hourly to come

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about, is by no means a pleasant subject to contemplate. The petition reads as follows:

"*To his Excellency James W. Nye, governor of the Territory of Nevada, Carson:*

"Your petitioners, residents and citizens of Aurora, Esmeralda County, Territory of Nevada, would most respectfully represent: That there is now an armed organization in our midst, acting in open defiance of the law and constituted authorities; that this organization, without even the pretence of legal right, is continuing to arrest citizens and residents among us, and compelling them, by an overwhelming force, to leave and abandon a place where they have seen fit to come and live. These proceedings are being carried on by an armed multitude, overpowering the legally constituted officers, upon the pretext of charges that are preferred in secret against parties protesting their entire innocence, and who are denied the opportunity of defence, of confronting their accusers, or even of knowing who they are.

"Within a very few hours one of these orders to leave has been issued and enforced by this organization at the imminent peril of the safety of our town, and the lives of the officers of the law and a large number of citizens called to their aid, but rendered powerless from the fact that all the public arms are in the hands of the organization referred to.

"But now, in addition to all this, another blow is levelled at every principle of law and sentiment of justice in the arrest of our fellow-citizen John M. Prendegrast, who has come under the ban of this organization, falsely styled the People's Safety Committee. This man we have known long. He is an old resident and a large property-owner in this place, and has held and now holds upon our staff of police a position which he has ever filled with fidelity and sobriety. Within the last twenty-four hours, in the middle of the night, this man has been arrested, without warrant, without knowing for what cause, has been held in close custody, a mock investigation reported to have been held, and without the aid of counsel or friends, or the privilege of calling witnesses in his defence, he is ordered to leave the place which he has made his home, and where, by his industry, he has accumulated a handsome property, and obtained the respect, hitherto at least, of the whole community.

"We, therefore, your petitioners, earnestly urge upon your excellency to adopt some measures by which our society may be held and protected within the law, the imminent danger of a disastrous outbreak and bloodshed be avoided, and the rights of all be protected and secured.

"And your petitioners will ever pray, etc.

"*Aurora, March 3, 1864.*"

The grand jury, reporting a month later, thought differently. They say:

"Having considered the homogeneous character of our population, isolated as we are and removed from the influences of older communities, and the great difficulty and expense of procuring witnesses, which deter persons of limited means from prosecuting and bringing to justice the perpetrators of crime, and the fact that within the last three years some twenty-seven of our citizens have come to their death by the hand of violence, and the delays and

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inefficiency, and we believe also the indifference of those who were the sworn guardians and ministers of the law, and the unnecessary postponement of important trials, whereby many notorious villains have gone unpunished, we are led to believe that the members of the vigilance association have been governed by a feeling of opposition to the manner in which the law has been administered rather than by any disregard of the law itself or of its officers."

Says the San Andrés *Register* of the 27th of February 1864:

"Since the organization of the Vigilance Committee at Aurora there has been a general skedaddling of murderers, gamblers, and thieves from that locality. It seems that a regular system has been adopted by this class of gentry for the murder of persons who might become obnoxious to them, from any cause, and great concert of action existed when they marked each one for slaughter. A man named Finley, who was interested in several valuable mines, was thought by them to have too good a thing, and his death resolved on; ascertaining which, he quietly sold out and left for the east. Dr Mitchel was also doomed, because he was a most important witness in the Pond and Del Norte suit, and saved his life by the greatest watchfulness. Johnson was killed for his money."

The Stockton *Independent*, noticing the refusal of the grand jury of Lincoln County, Nevada, to indict Barney Hood for killing Thomas Coleman at Pioche, gives the following history of some ruffians with whom Coleman was associated:

"In 1867 Edward Lloyd shot and killed a teamster named Thornton at Oroville. After two or three trials he was sentenced to ten years in the state-prison, but through some decision of the supreme court finally escaped. He and his two brothers, George and Thomas Lloyd, kept the Mountaineer saloon in Sacramento in 1861–2. In the last named year, if we are not mistaken, the great fight occurred at the foot of K street between the steamboat runners. Both drew pistols and commenced firing simultaneously. Lloyd was reënforced by his brother George, his cousin Patsey Callahan, and McAlpine, who has since earned a wide reputation as a prize-fighter. Coleman was supported by Joe McGee and F. N. Smith. The Lloyd party was armed with but one pistol and one knife. McGee stood a short distance off and fired with a revolver, wounding George Lloyd in the right shoulder and McAlpine in the wrist. In the heat of the conflict Smith approached Edward Lloyd from the rear and shot him, killing him instantly. Smith remained in the county jail about six months, when the grand jury ignored the charge against him. George Lloyd had by that time recovered. Within fifteen minutes of the time Smith was discharged, George Lloyd shot and killed him, inflicting four bullet-wounds. Lloyd was tried several times, and finally acquitted. A year or two later, Patsey Callahan was stabbed and killed at the Bank

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Exchange in Sacramento by Thomas Sherman. George Lloyd went to Nevada and Thomas Lloyd to Idaho. While in Sacramento George Lloyd had a rough-and-tumble fight with Johnny Daly, which was the subject of considerable talk among their friends. The silver excitement took over to the vicinity of Aurora, George Lloyd, Johnny Daly, Jimmy Sears, and the other Thomas Coleman, who was a brother-in-law of the Lloyd's, but who had nothing to do with the steamboat business. Sears soon afterward, while travelling on foot on the Aurora road, jumped on a horse in front of Johnson's hotel and rode off. He was pursued, shot, and killed.

"A short time afterward Daly and Coleman engaged in a bar-room fight with George Lloyd concerning mining claims, the respective parties having been retained as fighters by the conflicting claimants. Several shots were fired and Lloyd was killed. It was generally believed that the fatal shot was fired by his brother-in-law Coleman. Soon after this occurrence Johnson the hotel-keeper visited Aurora and was murdered in the night. The proof was conclusive that he had been murdered in revenge for the killing of Sears. A vigilance committee previously organized arrested, tried, convicted, and hanged Daly and three others for the Johnson murder. The Thomas Coleman who was recently shot and killed at Pioche by Barney Lloyd is, we believe, the brother-in-law of the Lloyds.

"One evening, perhaps in 1863, a man whose name we have forgotten, while in a saloon in Carson was shot and killed. The assassin fired through a window with a shot-gun and escaped. Suspicion rested on McGee. Precisely a year afterward, at the same hour in the evening, McGee while in the same saloon was shot through the same window and killed. The same gun was found on the ground, having been used as on the first occasion. The assassin also for a time escaped. Thomas Lloyd returned from Idaho to San Francisco. About eighteen months ago he shot and killed a man named Barry at Seventh and Stevenson streets, and is now serving out a ten years' term in the state-prison for the offence. We understand the Coleman who fought the duel with Mulligan to be the steamboat runner, who still resides in San Francisco. Mulligan, while under the influence of delirium tremens at the St Francis Hotel in San Francisco, resisted the efforts of the police to arrest him. An immense crowd gathered around the hotel. Mulligan fired and killed two men in the crowd, and was himself shot and killed by a policeman. This is indeed a dark chapter in the criminal record of the coast. The only instance of punishment by law, in connection with this entire list of crimes, is that of Thomas Lloyd."

About three weeks after the execution of the murderers of Johnson, Aurora was agitated by the threats of Masterson's brother, who on hearing of the hanging came over from Carson City to settle the rogue's estate. Little attention was paid him until he began to utter menaces against those who had slain his brother. Hearing these, the Union deter-

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mined upon action. The signal-gun was fired; the sheriff offered Masterson the protection of the jail, of which hospitality he eagerly availed himself. In less than twenty minutes after the signal-shot four companies were under arms. The armed guard which the sheriff had stationed to keep the prison were insufficient for its protection. Masterson then agreed to quit the place instantly if permission should be given him. This was agreed to by the military, who escorted him beyond the precincts of the town.

Between the ranchmen and the land-jumpers on the Truckee River on the night of the 17th of February 1864 there was a bloody fight, in which one Ferguson was shot to death and two wounded. The ranchmen then associated and declared war.

A man by the name of Doyle had been killed by one Lynn, who for the offence was confined at Dayton, Nevada, for trial. About three o'clock on the morning of the 10th of August 1864 a *posse* of the Dayton Vigilance Committee entered the apartments of the sheriff, whom they bound and gagged, and taking the keys they opened the jail, took thence Lynn, who begged piteously for his life amidst loud shrieks for assistance, and hanged him in the jail-yard. There was little excitement attending the execution, few knowing of it except those present until some time after all was over.

Near the sink of the Carson on the night of the 31st of October 1864 one Edward Hale was shot by a negro, who was soon afterward caught and hanged by the people.

Besides the several committees of vigilance organized at different times and places in Nevada, there were many impromptu tribunals for special cases, as well as mobs and Indian-fighting companies. An association was likewise formed under the denomination of "The Miners' League," which was not always temperate in its counsel nor beneficial to society in its operations. There is a vast difference in the asso-

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ciating of the best element of a community, actuated by no personal ambition and possessing no political aspirations, banding for the support of social morality and good order, for the upholding of law and government in so far as law and government can sustain themselves, but never harboring designs of their overthrow—there is a vast difference, I say, between such organization and the leagues of disaffected laborers, secret political societies, and the coalescing of lawless desperation.

James W. Nye, governor, and superintendent of Indian affairs of Nevada, writes from Carson City September 25, 1864, to J. P. Usher, secretary of the interior at Washington, informing him that "for the last five weeks this territory has been in considerable turmoil and commotion, owing to apprehended raids from avowed disloyalists from California and this territory on the principal towns of the territory on the one hand, and riotous and unlawful proceedings of persons composing what is here called the Miners' League on the other. On two occasions I found it necessary to order out the military from Fort Churchill to the towns of Virginia and Carson, to be in readiness to suppress or prevent these anticipated troubles. A force of nearly three hundred cavalry is now on duty at Virginia, ready to meet any outbreak of the rioters. I have also had to form companies of home-guards in every town in the territory, and arm them to suppress and subdue unlawful violence."

And again five years later we read in the Sacramento *Bee* of the 30th of September 1869:

"Yesterday afternoon about three hundred and fifty members of the Miners' Union at Gold Hill, Nevada, made a raid upon the Chinese laborers on the Virginia and Truckee Railroad. They drove the Chinamen away from their work, but did not attempt any personal violence. The sheriff of the county and officers were present, and contented themselves with reading the riot act and watching the exploits of the *guerillas*."

In April 1867, following the Virginia *Trespass*, matters stood thus:

"The fracas in the Highbridge saloon, Belmont, on the 18th has been

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the means of impelling the people of that place to the resort which new communities so commonly adopt for security from ruffianism. A vigilance committee has been organized and is now making efforts to overtake those who took part in the outrage which resulted in the death of Bodrow and afterward of Dignen. A jail has been constructed, and two men who participated in the abuse of a mining superintendent on the night of the 17th have been incarcerated, Russell and Bender. Eight mounted men, a patrol appointed by the Committee, are traversing the surrounding country in quest of others who were engaged in the riot. Great excitement was occasioned by the imprisonment of Russell and Bender. Armed men were seen on every hand, some to resist the rumored hanging, others with the determination to stand by the Committee."

One Vail, arrested for the murder of his partner, Knox, while in custody of the sheriff of Lincoln County in July 1867 on the way to Hiko, was seized by a company of men, tried before a jury of twelve, condemned, and in an hour and a half thereafter hanged. Of this affair the same journal of July 19th says:

"We learn from Mr Walsh, who arrived here from Belmont last evening, that the mail-carrier between Belmont and Pahranagat arrived at the former place on Monday evening, bringing the news of the hanging by the people on the previous Thursday of S. B. Vail, the alleged murderer of Robert W. Knox. Vail, it will be recollected, was arrested a few miles from Austin by our city marshal, W. H. Knerr, on the 10th of June, and delivered to the custody of Sheriff Matthews of Lincoln County. The prisoner was taken to Belmont, and while there steps were taken to prevent his being carried to Lincoln County, but he was finally delivered to Sheriff Matthews, who succeeded in taking him to where the foul murder was committed.

"Vail was taken from the sheriff at Logan Springs and carried to Hiko, ten miles distant, the county seat of Lincoln, where it appears they gave him a trial after the manner of Judge Lynch. He refused to make any confession of the murder of Knox, asserting that he believed he was in Prescott, Arizona. While he persistently denied the murder, he confessed that he was a horse-thief. He was condemned to be hanged. A piece of timber was run from the upper window of a building, to which a rope was fastened; a wagon containing Vail was driven alongside the house; the rope was placed around his neck, and at a signal the wagon was drawn away, and in a few minutes the career of a bad man ended."

In every spot of the Pacific States where precious metals have been found, thither have flocked like vultures desperate characters, who stirred up strife, excited turmoil, and caused the honest and industrious

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much anxiety. And this was continued, gradually growing worse, until they were driven out by the order-loving element; for the right-minded of every permanent community are stronger than the evil-minded. The White Pine district proved no exception to this rule.

During the winter of 1868–9 the roughs and outlaws directed their attention chiefly to driving from their ground those who held possession of mining claims. So unbearable became the evil that the citizens of Hamilton and Treasure City were obliged to form protective associations.

It was exceedingly difficult for the miners to submit to the rulings of courts which wrought injustice to any of their number. They loved equity more than law. The people of Treasure Hill, White Pine, had not long been favored with a district judge before they placed their will in determined opposition to his. One Stanton in August or September 1869 sued and obtained judgment for certain land which had been bought and improved by innocent third parties. Of this land a Mr Fulton had bought a piece and built a house upon it, at a cost, for land and building, of some fifteen hundred dollars. Fulton was willing Stanton should have the land if it belonged to him, but he thought the house by rights belonged to himself. And so thought his neighbors; for one night forty of them proceeded in a body to the place, rolled the house across the street, and placed it upon ground which did not belong to Stanton. The latter was present with friends; shots were exchanged, but the Fulton party was the stronger.

On the Egan and White Pine road robberies became so frequent that the inhabitants of that vicinity on the 27th of September 1869 called a meeting and organized the "Egan Cañon Property Protection Society," by which means they hoped to curb the growing evil. J. Riley and J. O'Dougherty in behalf of the people of Egan submitted the following reso-

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lutions and rules for the government of the society, which were adopted:

"WHEREAS, The discovery of rich mines of silver in the White Pine district has attracted to eastern Nevada a large population, and among them, unfortunately, many of the reckless and criminal adventurers who float habitually from one scene of mining excitement to another, and who, when they find their wild hopes of sudden acquisition disappointed, betake to theft, robbery, and murder as a means of support; and whereas, from the exposed position of many districts and the sparseness of settlements upon the principal highways in this county, there exist here peculiar facilities for the perpetration of robberies and the escape of robbers, while the supineness and inefficiency of the executive officers of the county are such as to give, practically, full license to crime; therefore,

"*Resolved*, That the condition of this county calls imperatively for a defensive organization of its citizens for the protection of life and property, and for the prompt adoption of all proper means to excite, and if necessary to compel, the executive officials to an active, efficient, rigid, and persevering discharge of their duties.

"*Resolved*, That as the first step to the prevention and punishment of crime, it is necessary that the law-loving and law-abiding citizens shall manifest, by such organization as ours, their own interest and determination in regard to the arrest and conviction of criminals, these organizations to correspond and coöperate for the accomplishment of these objects; and that until the state of things which now exists shall be corrected, all honest men should unite, without respect of party, to sustain and applaud those officers who honestly and satisfactorily perform their duties; and to defeat the reelection, and when possible effect the removal, of those who are indifferent, corrupt, or inefficient.

"RULES AND REGULATIONS OF THE SOCIETY.

"First, This society will be called 'The Egan Cañon Property Protection Society.' It will be established for the mutual protection of the person and property of each individual member of the community against the outrages of highway robbers, horse and cattle thieves, and dishonest persons. Second, Each member on joining the society will pledge himself to abide by its rules and perform what they demand of him. Third, The officers of the society will consist of a president, vice-president, secretary, and treasurer. These will constitute an executive committee. Fourth, It will be the duty of each member to give prompt information to the executive committee, or to the president or secretary thereof, whenever he hears of the commission of an outrage in the district, or when he has reason to believe that unknown persons are prowling about under suspicious circumstance. Fifth, It will be the duty of the executive committee, the president or vice-president thereof, to place themselves in immediate communication with the local authorities, and in coöperation with, or acting under them, to use every exertion and employ every means to bring the perpetrator of such outrages, or such suspected persons, to justice. Sixth, When such information shall have been thus properly

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brought before the constituted authorities, it will be the duty of the committee to choose by ballot a certain number of members from the society, who on their part will be bound by their pledge to accompany the law officer or officers, and to coöperate with them in every step that may be found requisite to detect or apprehend such suspected persons. Seventh, If any property shall be recovered through the exertions of the society, the owners shall be required to refund to the society a certain sum, proportionate to the value of the property, toward defraying the expense incurred in the recovery of such property. Eighth, No person shall be a member of the society who has not some legitimate business or calling in the district; and when admitted to membership no cause other than sickness or absence shall exempt any person from any of the duties of membership. Ninth, There shall be no admission fees, but to pay the expenses of pursuing and prosecuting offenders the executive committee shall levy an assessment on the members when occasion shall arise. There shall be no special days of meeting of the society, but the members will be convened by the president, or any member of the executive committee acting for him, when their services shall be required. No habitual drunkard or person of bad moral habits shall be a member of the society."

Upon the telegraph poles of Promontory one Sunday morning in November 1869 there appeared posted a notice, signed by the Committee of Vigilance, warning all loafers, pimps, gamblers, pettifoggers, thieves, and cutthroats to quit the town within twenty-four hours, or to prepare to be hanged each upon a telegraph pole. The suffering towns-people had been obliged to resort to this means to rid themselves of a class who were sapping society of its prosperity. Having just organized as a permanent committee of vigilance, they were determined to cleanse their town of its moral impurities or decorate with a swinging carcass every telegraph pole within the town limits. Neither trees nor lumber were plentiful in that vicinity. The many who availed themselves of this permission, men who suddenly discovered urgent business calling them to the east or to the west along the road, some of them unsuspected hitherto of carrying guilty consciences, it was wonderful to see. A committee of three was appointed by the Vigilance Committee, charged with power to convene the entire body at any moment. The time having expired, the Committee next day visited every saloon and all disreputable houses, and warned the proprietors against

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harboring any suspicious persons, under penalty of themselves being driven from town.

The following incident is one of cold-blooded and unprovoked murder: Arthur Perkins Hefferman in March 1871 approached one William Smith, who was standing by a cigar store in Virginia City, and drawing his six-shooter asked him what he wanted. Smith replied, "I don't know that I want anything." "How do you want it?" was Hefferman's rejoinder, at the same time firing his revolver, the bullet penetrating Smith's left eye and coming out at the top of his head. "I fetched him!" Hefferman exultingly exclaimed as Smith fell. Then suddenly, as if the possible consequence of the deed had all at once flashed upon him, he added, "My God! I didn't mean it!" Upon his arrest he said to the officer, "I give myself up to you; I have killed a man; it was an accident; I didn't mean to kill him." He was taken to jail. On the morning of March 25th, at one o'clock, a delegation of the Virginia Vigilance Committee numbering eighty armed men proceeded to the jail, and entering the room of the sheriff, demanded the key to Hefferman's cell. This was refused, and the vigilants forced open the door. Hefferman was led out with the avenging hemp round his neck, taken to the Ophir mine, and hanged from a beam that extended from one of the buildings. The sheriff was exonerated, and the public were generally satisfied with the night's work.

This man was born on board the ship *Perkins*, which sailed from New York the 26th of September 1846, carrying a portion of that scaly crew, the New York Volunteers. The captain's name was Arthur; so this villainous spawn of villainous antecedents was dubbed Arthur Perkins, and his origin and end were alike bad. His father was corporal of Company F and his mother a sister of the notorious robber Jack Powers, who was also a member of the same Company F. It is said that during the year 1871 fifteen persons were driven from Virginia and Gold Hill by the Vigilance Committee.

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George B. Kirk, a native of Fayette County, Missouri, came to California at an early day. He was a desperate character, having killed his uncle before he left home. For five years he was in the Nevada state-prison on a charge of burglary; during an outbreak the warden, Alexander Hunter, was wounded, and Kirk was believed to have shot him. Afterward he lived at Virginia City, where his cabin was head-quarters for roughs and vagabonds; he seemed to have no legitimate business. At the time of the hanging of Hefferman by the Vigilance Committee, he, with several other desperadoes, was warned to leave; he did so, but returned. Warned once again, he left, and again returned, threatening to get even with the vigilants. This was his last visit, for on the evening of July 13, 1881, he insulted one, a stranger to him, but who happened to be a member of the Vigilance Committee. The vigilant notified his associates. Kirk was followed to a saloon, where he was captured; he was then taken quietly to a trestle-work at the Sierra Nevada mine and hanged. Beyond their little circle nothing was known of it until it was all over.

During the summer of 1871 crime became rampant at Pioche, Nevada, so that it was deemed necessary to organize a committee of safety. The committee numbered about three hundred, and Henry rifles were obtained with which to arm themselves.

Indians as well as Chinamen followed closely on the heels of the audacious white man in the arbitrary extermination of the wicked. Buffalo Bill was a bad Piute. He drank to drunkenness; then with a pistol he shot another Piute, so that he died. Thus he was becoming quite civilized; so also were his brother Piutes then fringing Virginia City, for on the 31st day of December 1872 they organized among themselves a tawny, reptile-eating committee of vigilance, and seizing Buffalo Bill they killed him very dead as boys kill snakes.

About eleven o'clock on the night of June 3, 1874,

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thirty men entered the jail at Belmont, Nevada, bound the sheriff and his deputy, and hanged two prisoners named Walker and McIntyre. Accounts of organizations and executions might be greatly multiplied in this narrative, but further illustration of the workings of the institution in this vicinity appears to me unnecessary.

At Belmont, Nevada, in 1874 there was a popular demonstration, of which the Belmont *Courier* of the 6th of June gives the particulars:

"Between twelve and two o'clock on Thursday morning, Jack Walker and Charles McIntyre were hanged in the county jail, with a slip of paper pinned on each of their backs bearing the inscription '301.' Before the execution took place Sheriff Caldwell and P. C. Turner, his deputy, each occupying separate rooms in the court-house, were securely tied, hands and feet, and guarded for a time, perhaps ten minutes, after which they were left in that condition, unable to move. Shortly afterward, however, night-watchman Gates, noticing movements that aroused his suspicion, repaired to the court-house, and found the light usually kept burning in the court-room turned down. He then went to the doors of the sheriff and deputy, and after some little difficulty succeeded in gaining access, and found the two officers securely tied and destitute of arms. Gates released them, and the three went below and found Walker and McIntyre, each suspended, with ropes round their necks, to the upper floor. McIntyre had been tried on May 6th for drawing a deadly weapon, not in self-defence, for which the justice at the time imposed a fine of two hundred dollars, or imprisonment at the rate of two dollars per day until the exhausting of the amount aforesaid. Walker had been taken into custody for the shooting of H. H. Sutherland on the morning of the 6th of May, for which offence he was held to appear before the next grand jury. The two victims, Walker and McIntyre, escaped from jail during Monday night, and were captured and lodged in jail again on Wednesday. From all accounts these two had taken the lives of many men in different parts of the country, and had the reputation of being desperate characters. Between the time of their commitment and hanging it appears they had made threats to take life and destroy property. Once they were released from custody, and from the peculiar framing of the present jury law their chances for acquittal were quite probable. It is not our purpose to justify the hanging of these men, but in all reasonable probability to avoid their threats being carried out, together with the certain knowledge of their previous history, they were thus summarily disposed of. We trust that all other desperadoes will take warning, if there are any in our midst, and profit by the example made."

Two natives, Tempiute Bill and his brother, were arrested by the Shoshones in January 1875 and

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brought to Belmont. There the sheriff took them, and while on the way to Hiko one of them, Bill's brother, broke away and escaped. Bill was then taken from the sheriff by the people and conducted to Hiko. He confessed to many murders, one of which implicated a savage called Moquitch, who was sent for, and the two hanged. This was not the worst of it; this is not the disgraceful part of the story. Full of rage and vile drink, after the hanging of the two aboriginals the people of Hiko went to a camp near by and massacred seven natives, some of whom were guilty and some innocent. This was most dastardly; and had the diabolical deed been perpetrated by savages upon whites, all the world would have lifted its hands in horror, and a regiment of soldiers would have been sent by government to annihilate the nation to which the murderers belonged. How fortunate to be born white!

At Cherry Creek, Nevada, in September 1875 a native criminal was taken from the sheriff and executed by the people.

At break of day the 17th of December 1875, as two men were passing Carson cemetery they saw swinging from the gate frame the figure of a man. Returning horrified to town, they told what they had seen, and soon crowds were pouring along the road in that direction. It was ascertained the body was that of a noted desperado named Samuel Burt. The ominous number "601" pinned to the breast showed that the dread Vigilance Committee had been abroad the night before. Robbery and incendiarism had been prevalent of late, and in all large villainies Burt was chief. He had been frequently ordered to leave town, but had refused to go. Those who hanged him were disguised. They took him from the Emory engine-house, where he had been accustomed to sleep for some time past. He made no disturbance when awakened by the fearful summons, "Get up quickly and dress yourself; you are wanted." He seemed to

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realize all in an instant, and did as he was bade in all things, quietly and quickly. It was a good desperado at the last.

About the 1st of July, at Ward, Nevada, a native having attempted violence upon a white girl eleven years of age, the citizens told his countrymen they must attend to it, whereupon they took their erring brother and hanged him; and the little white girl was pacified.

As late as midsummer of this year, 1877, both at Winnemucca and Virginia, as well as in other parts of Nevada, the Vigilance Committee was still in active existence. At Winnemucca early one morning in July a robust ruffianly figure was found suspended from the limb of a dead tree in the burnt district with the cabalistic "601" pinned to his back. Between the good and the bad there is eternal antagonism.

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CHAPTER XXXIII.

THE POPULAR TRIBUNALS OF OREGON, WASHINGTON, BRITISH COLUMBIA, AND ALASKA.

Justice, justice: woe betides us everywhere when, for this reason or for that, we fail to do justice! No beneficence, benevolence, or other virtuous contribution will make good the want. And in what a rate of terrible geometrical progression, far beyond our poor computation, any act of injustice once done by us grows; rooting itself ever anew, spreading ever anew, like a banyan-tree, blasting all life under it, for it is a poisonous tree! There is but one thing needed for the world; but that one is indispensable. Justice, justice! in the name of heaven give us justice, and we live; give us only counterfeits of it, or succedanea for it, and we die!

Carlyle.

PASSING northward over the forty-second parallel, we encounter in some localities new phases in judicial affairs. First at Fort George, Astoria, were the Pacific Fur Company; then for a time the Northwest Company were master in all this region; afterward the Hudson's Bay Company; and finally American missionaries and settlers.

It was customary for the fur companies to arrest and try offenders. Sometimes a native criminal would be handed over to his tribe for trial; or a jury of men about the fort would be formed; or a mixed jury of white men, half-breeds, and Indians. Often of their own accord the chiefs would bring to the white men for trial an offending member of their tribe; or the parties to a quarrel would leave its settlement to the white men, confident of their integrity. In all these tribunals Indian testimony was taken even against white men. This would scarcely be regarded with favor in the United States; and yet if within all our border there could be found red men or copper-colored who could surpass in lying many of our white wit-

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nesses, particularly those about the Indian agencies, who are most frequently called upon to testify against the Indians, they were indeed adepts in the art. Sir George Simpson, as head of the Hudson's Bay Company, in crossing the continent in 1828, and at other times as he went from place to place, would hear and decide cases while *en route*.

In May 1813 the Pacific Fur Company was robbed of a silver goblet at Lewis River. The chief of the tribe promised to look for the offender, but did not. The next night the fellow was caught stealing. A temporary gallows was erected, and the Indian was hanged before the tribe, who agreed to his execution, as the culprit was a kind of outlaw among them.

A half-witted American named Judge was found with his skull cleft, near Fort George, in May 1815. Native chiefs were summoned and a reward offered. A Clatsop pointed out the murderers—there were two of them—at Killamook Village, and they were captured and brought to Fort George. A jury was formed of gentlemen of the fort, and equal numbers of the principal native men and women. Witnesses showed that the deed was in revenge for a wound given to an Indian robber some two years before by one of the party to which Judge belonged, the natives wrongly blaming him. The Indian women exhibited more acuteness in cross-examination than the chiefs. The prisoners were found guilty and condemned to be shot. They objected strongly to being tied and to having the cap drawn over their eyes, but they were compelled to submit. Twenty-four men were selected by ballot to shoot, but the culprits were merely wounded at the first fire, and had to receive the *coup de grace*. The relatives took away the bodies lamenting; and the promised rewards were paid the natives.

The unity, energy, and wealth of the Hudson's Bay Company gave them great influence with the government, and often procured immunity from crimes committed by their officials and servants.

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Peter Burnett writes from Tualatin November 2, 1844, to the Indian agent for Oregon that he had "attended the last term of the circuit courts in most of the counties, and found great respect shown to judicial authority everywhere, and did not see a solitary drunken juryman, or witness, or spectator."

So few were the serious litigations in Oregon that when the first circuit courts were held in the four counties only one case of assault appeared, the punishment being a fine of twenty-five dollars. The highest charge brought before an Oregon judge or justice up to 1845 was for fighting a duel.

Jacob, a Russian renegade who had mutinied on board the schooner *Colonel Allan*, was left a prisoner at Fort George, but escaped and joined the natives to rob the white men and attack the fort. Tired of his pranks, and afraid of his organizing more serious movements, forty of the Fort George men surprised the native village, carried off Jacob, and sent him in chains to Honolulu.

Mr Hubbard, of Champoeg, Marion County, had a native wife. A neighbor threatened to take her, and entering through Hubbard's cabin window for the purpose, the latter shot him. Rev. Mr Leslie presided as judge, and the jury returned a verdict of justifiable homicide. Petitions circulated at this time stated that theft, murder, and infanticide were alarmingly on the increase.

Some time in December 1853 an Irishman in the service of General Adair, collector of customs at Astoria, Oregon, robbed the safe of three thousand dollars. The collector had left his office for a few moments, with the key in the safe; the Irishman was there at the time, and there could be no doubt that he took the money. Accused of the theft, however, Pat stoutly denied it. As there were no witnesses in this instance, he regarded a lie well adhered to as much better than the truth. What should be done? The law could not make him disgorge, for first the offence

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must be proved, though there was, perhaps, circumstantial evidence sufficient for that; but then Pat could afford to lie in prison some time for three thousand dollars. Butler Anderson was there at the time, and he told the collector that he would manage it. Taking with him a number of assistants, he conducted the Irishman a short distance into the woods, tied a rope round his neck and threw one end of it over a limb, dug a grave, drew over the culprit's face a black cap, and then told him to say his prayers, if so great a thief as he without a priest could pray. Pat was sceptical as to the sincerity of their intentions, and when Anderson intimated that information as to the whereabouts of the money might stay proceedings, Pat felt sure that he was safe, and protested his innocence more loudly than ever.

"The thing must be done," said Anderson. "Hoist away, boys!" And up went the Irishman.

"Stop!" cried Anderson; "let him down a moment."

When Pat could balance himself upon his feet Anderson asked him, "Are you sure you cannot tell us where the money is?"

"Oh Jasus!" cried Pat; "oh holy mither of God! I'm sthrangled! As I hope to be saved, I know nothing of the money. Oh! plase, Mr Anderson, let me go!"

"No use," said Anderson as if talking to himself; "I thought perhaps he might like to live. String him up again."

Again Pat's feet left the firm earth; again that horrible sensation; thick blackness, phosphorescent light, the hot blood rushing in torrents to the brain, an uncertainty as to whether the neck was yet unbroken—all this as the Hibernian went up and down again. The joke was becoming serious to the sufferer. Even if they did not mean it, the fun was not pleasant; and then they might hold him up a moment too long. Already he had thought much of his mother and sister, whom he had hoped to make rich in the sweet Emerald Isle; already his neck and head felt very queer, and so

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hot, and heavy, and sore. And then his soul: to go hence a thief unshriven, what would become of him? He would not risk it a third time for three thousand dollars, much as he coveted the money. So he told Anderson where he had hidden it, and was released from the hempen remedy.

Prior to 1852 justices of the peace elected by the people held almost unlimited jurisdiction, there being in most localities no available court of appeal. Before January of this year there was no county organization south of the Calapooya Mountains; and although in the summer of 1852 rich gold-diggings were discovered on Jackson Creek where now stands Jacksonville, no higher court than the lowest was held in that region until the year following.

The miners of Oregon were in no wise behind those of California in brightness of intellect and resource in cases of emergency. The offer of free lands to actual settlers by the government in 1850 drew thither from the western border and from the New England states a hardy and independent population, more staid and substantial, if anything, than the mercurial gold-hunter of California. These, on the discovery of gold on Jackson Creek, flocked to the new mines to fill their pockets.

A justice of the peace had been elected for this district just before the discovery of gold. Rogers was his name—a lean, crabbed, sinister-eyed man, with neither discernment nor honesty. He did well enough, however, when there was no business to be brought before him, and for a time after the congregating of the miners he passed muster, that is to say, until he was needed and known.

A case arose in the autumn of 1852 which brought judicial affairs at Jacksonville to a crisis. Two miners, Sprenger and Sims, appeared before Rogers in a suit for the settlement of partnership in a mining claim. It appears that while Sims was absent at Portland

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purchasing supplies with partnership funds, Sprenger met with an accident while working the claim, which laid him up. When Sims returned, finding his partner a helpless cripple, and likely to be a burden upon him, he arbitrarily dissolved the partnership and appropriated the property to himself; and lest his partner should recover his rights in court, he won to his way of thinking the only magistrate in the district, and so felt secure. Sprenger summoned to his aid a fellow-miner named Kinney, who presented the case before Justice Rogers fairly and with no little skill. Law and equity were both in favor of his client, and this was made plain by Kinney; but the eyes of justice were dimmed by Sims' gold-dust scattered before them, so that they could not see. Sprenger lost his case, and a new trial was denied him; the poor cripple in his distress talked to his friend Prim about it, who being somewhat of a lawyer, consulted several times with Kinney. Prim, though a miner now, was afterward chief-justice of Oregon.

"It is all wrong," said Kinney on one of these occasions; "I believe in simple straightforwardness in legal matters, and in the court of original jurisdiction being likewise the court of ultimate appeal, but this open and barefaced rascality shakes my faith in theories."

"There is no such thing on this earth as ultimate appeal," replied Prim; "that is found alone in the beyond. The farthest back we can go is to the source of law, the omnipresent power of the people. That power is here, as indeed it is in every society, the central idea and cohesive force."

"All right," exclaimed Kinney, half in jest and half in earnest, "let us appeal to that power in this case."

"We can do it—we will do it!" replied Prim, waxing warm. "Who made this scoundrel judge? The people; and if the people possess the power to appoint one man to hang another, may they not make a court high enough to hang, if need be, another court which they have made? I tell you, Kinney, within twenty-

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four hours I will have here such a court of appeal as will teach Oregon and the world a lesson throughout all ages—a lesson inscribed in the beginning upon the hearts of men, but which is just now beginning to be read, that ever before all statutes and constitutions is the unwritten law of man."

This was Saturday. The morrow would be the day of all others for the organization of the novel tribunal, the court which was to try a court. Sprenger was notified by his two friends of the course determined upon, and directed to summon the people. This was done by posting on a tree standing in the main street of Jacksonville the following notice:

"Whereas, the justice of the peace for the town of Jacksonville has rendered against me an unjust decision, I hereby give notice that on Sunday morning next at eleven o'clock, at this place, I shall carry an appeal to the supreme court."

Likewise during the afternoon of Saturday Sprenger took occasion to visit the several claims and camps in the vicinity, requesting the attendance of all on the following morning to decide a matter of right and wrong in which he was involved.

Sprenger's case was well known to the miners, and the present appeal of the unfortunate cripple was by no means in vain. Long before the appointed hour men were seen coming in from every direction, and soon a vast crowd had gathered round the tribunal tree. Approaching the notice, they read it, then looked around in wonderment. More came, until over a thousand had gathered there. Presently Sprenger made his appearance.

"Where is your supreme court?" asked one of Sprenger, beginning to think the affair a joke.

"There!" said Sprenger, waving his hand before the assembled host, "there is the supreme court of Jacksonville."

Kinney and Prim then came forward and confirmed what Sprenger had said. They were honest, manly

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men, these two miners, educated and thoughtful, and they were now working for no pecuniary fee. In them the miners had the utmost faith, and united they could carry almost any point they pleased, for they pleased to do nothing but the right.

"Yes, gentlemen," said Prim, as he called the meeting to order, "you are the supreme court. You have here in Jacksonville law, but not equity. Seated in the judicial chair which you have made, in the fair semblance of truth you have cheating and corruption. If after seeing what we shall place before you this day, with all substantial proof, your magistrate remains in office another hour, you are not the men I take you to be."

Kinney then proceeded to organize of those present a tribunal of justice. Hayden, a genuine Connecticut Yankee, subsequently for twenty years recorder in one of the chief towns of southern Oregon, was called to preside; a sheriff and a clerk were likewise chosen, and the people were ready for business.

First Rogers was ordered to appear and answer to the charge of malefeasance in office. This he refused to do, not recognizing the authority summoning him. Very well; for the present they would get along without him. He might be glad to plead to that tribunal before the day was past. Sims answered immediately the first call; he knew too well the temper of his fellow-miners to attempt to trifle with them. He felt the power of the popular tribunal, though the stubborn Rogers affected not to realize its weight.

A jury of twelve was selected; witnesses were subpœnaed, and the case of Sprenger regularly reopened. Sims, with his henchman Jacobs, a promising young lawyer from Michigan, and subsequently chief-justice of Washington, fought the evidence inch by inch, as if their lives depended upon the issue. In that assemblage they well knew that law and legal verbiage had little weight; they must come down to the

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principles of simple truth and justice, in which commodities, unfortunately, their side was lacking.

The evidence over, an eloquent appeal on either side, and the case was submitted to the jury. In his charge the president instructed the twelve that they might divest the subject of the legal technicalities in which the counsel for the defence had attempted to cloud it, and judge it purely upon its merits, being governed only by the sacred principles of right.

There was not the slightest difficulty in finding a verdict for Sprenger; the trouble was what to do with Sims and Rogers. Some were in favor of hanging both of them, while others were satisfied with hanging one, although upon the question of which should be that one there was a division. Finally Sims was let off by making full restitution and reinstating Sprenger in all his rights. But this mild punishment only tended to concentrate wrath against Rogers, the unjust judge. Louder and louder grew the ominous murmur that presages popular outbreaks. Hayden saw it coming; so did the three attorneys. The scale of Rogers' destiny was ready to turn upon a feather's weight. His life was scarcely worth a pewter dollar. Already cries of "Hang the scoundrel!" "String him up!" were heard on every side, and the crowd began their dreadful surge in his direction, when Prim, Hayden, Jacobs, and Kinney, all with one accord threw themselves into the now deeply agitated mass of humanity and begged them not to mar that fair day's work by so foul a crime. They were successful; the unjust justice's life was spared, but only on condition that he should immediately resign, which he was but too glad to do.

One day in November 1862 John Desmond and William Lybia, Americans, were sitting at a table in a saloon in the town of Auburn, Oregon. Tom the Spaniard, a desperado well known throughout the Powder River region, entered and proposed a game

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of poker. The Americans consented, but on dealing the cards the Spaniard had not the money wherewith to ante. The Americans then rose from the table; the Spaniard applied to them abusive epithets, to which the others retorted. Quick as a flash the Spaniard drew a knife, stabbed one to the heart, and then attacked the other. After a prolonged scuffle the Spaniard likewise stabbed this man to death, and then departed. The barkeeper, the only witness of the affray, seemed in no haste to spread the intelligence, and the sheriff did not know of it until next day, so that the murderer had every opportunity to escape. Nevertheless the sheriff, with several parties of citizens, started in pursuit. After two days' search the Spaniard was arrested by two men from Mormon Basin and brought back to Auburn. The question then arose what should be done with him, and gradually amidst much lukewarmness and some opposition they concluded that the man should be hanged. The sheriff confined the prisoner in a saloon, and with a strong guard within and without, declared he would keep his charge at every hazard. Thus passed the night after his capture. Next morning miners from the surrounding camps began to come in, and gradually the friction of ideas produced considerable excitement, the result of which was a strong determination on the part of the people to hang the prisoner instantly. At eight o'clock in the morning the throng about the saloon was dense. One Kirkpatrick mounted a stump and addressed the people, advocating the side of law and order. He was followed by a Mr Johnson, who argued that the law could not or would not punish, and that the people should. Others followed, sustaining him. Many of those in the assembly who were unarmed were now seen proceeding for their rifles, and the fate of the Spaniard fast assumed fixedness.

Justice Abell that day held court on a hill-side west of the town in the open air. A strange mix-

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ture of law and disorder were some of these border trials. The law was not strong enough to do much; and while the people came to the assistance of law, they could not bring themselves to do things in the legal formal way. They could get along very well through the forms of trial, the taking of evidence, and the determining the guilt or innocence of the prisoner. That was necessary; that was only fair-play. But when it was decided that a man was guilty, they could not see why he should not be executed; and when they had anything to do with it they usually condemned and executed. For that purpose had they left their work. Thus it was in this instance. The people of Auburn had a justice of the peace, and they might as well use him; but whatever should come of the justice of law, this murderer should hang. On this hill-side, with a big bowlder for a speaker's desk and a smaller one for the clerk's, justice held her court. Before Abell the prisoner was brought, and the multitude gathered round. As the evidence was being taken it was written by the clerk and then read aloud to the assemblage. The people present then appointed a jury to decide from the evidence the guilt or innocence of the accused. Their verdict was "Guilty of murder."

"Shall the prisoner remain in the hands of the civil authorities?" was then asked.

"No!" was the reply, in a terrific yell, which reverberated among the hills.

Then arose the sheriff and said that he should defend the prisoner, and recommended those present to behave in a manner becoming good citizens. He was followed by G. C. Robbins; and the calmness with which he was listened to as he advocated mild measures encouraged the lovers of law in the hope that the company would disperse without doing violence. But it was only the lull before the storm.

Suddenly a rush was made for the Spaniard. The sheriff and his men closed round him, and the struggle became hot. It is worthy of remark in all these con-

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flicts between the officers of the law and the people that great care is taken on both sides to avoid seriously injuring each other. Knives and pistols were not the weapons used in seizing a prisoner; that is to say, the use of deadly weapons would be the last resort. Thus it was that Whittaker and McKenzie were permitted to go with the sheriff of San Francisco. The people had no desire to hurt the authorities for doing their duty. Nor did the sheriff, as a rule, blame the people or question their right to do as they did; only the law, his mistress, was a jealous jade, and must be wooed coercively.

In this instance during the *mêlée* there were heard cries of "Shoot!" "Don't shoot!" followed by several shots. The result being that three men were shot, but not seriously, by friends of the prisoner. One Mexican after firing took to his heels, followed by twenty or thirty men, who shot him dead. Then as the dense mass surged and parted, the prisoner was discovered in the hands of the now madly infuriated people, who, seizing him by the chain attached to his ankle, ran down the hill, dragging him after them. On reaching Main street a rope was thrown round his neck; a hundred men laid hands on it, and ran with it about half a mile farther to a tree, where they pulled him up; but the man was dead long before the body was hanged.

The officers of Yamhill County, Oregon, in the spring of 1865 boasted their hundred thieves' discovery. The weakness of these outlaws was horses. Desperate oaths bound them; though what is worth his oath who steals? Grips and passwords made them known to each other. The haunts of this fraternity were along Rogue River and the Umpqua and Willamette valleys from California to Idaho.

George Fry, living on the Umatilla River, was subject to periodical fits of insanity. While suffering severely from an attack of typhoid pneumonia he was

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seized with the fancy that his brother-in-law, William Stoughton, a kind-hearted and highly respectable man, at whose house he was carefully tended, had poisoned him. So strongly possessed of this hallucination was he that he insisted upon his removal from Stoughton's house to the residence of Doctor Marquan, his physician, who immediately examined him and pronounced him poisoned. "If I am poisoned, Stoughton has done it!" Fry exclaimed, "for he is the only one who has given me medicine." Thereupon Marquan circulated the report throughout the neighborhood that Fry had been poisoned by Stoughton. On the night of the 23d of February 1866 fifteen or twenty persons took Stoughton from his house and hanged him upon a tripod formed of three rails taken from a fence near by. Several persons were indicted for the murder after it had been proved beyond question that not a particle of poison had been administered the insane invalid.

The two worst thieves and murderers west of the Rocky Mountains were perhaps Owhi and Qualchien, father and son, chiefs of the Yakima tribe. For years they had kept the whole country in confusion, and had great influence over tribes accustomed to revolt. On the 24th of September 1853 Qualchien was guided by an enemy into the hands of the troops at Spokane, and was speedily run up to the branch of a tree, behaving so cowardly as to be disowned by his father, who was also a prisoner. The latter was shot while trying to escape.

The grand jury of Walla Walla, reporting in November 1862, regard with evident satisfaction their uncompleted though occupied jail. "The building stands on the public square," they say, "in a pleasant portion of the city, and has all the natural advantages of a fine circulating atmosphere. The prisoners say they are well fed and properly cared for, and express entire satisfaction with their treatment." Altogether a

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pleasant place in which to spend the summer; only the accommodations are inadequate for the rapidly increasing number of guests. Among its other advantages the *Washington Statesman* of the 30th of May 1863 assures felons at large that "prisoners confined in this structure have never had any trouble in making their escape from it when they wished to do so." Hence it is not surprising a month later to find the farms of Coppei and Touchet stripped of their horses, and seven thieves sending them word from Snake River that with three revolvers each they stand ready to defend their newly acquired property. Vigilance associations had been formed in every settlement and mining camp of eastern Oregon and Washington and western Idaho and Montana—of all that region affected by the Boisé mines—except Walla Walla Valley, where there was no organization. As soon as it was noised among the brotherhood, they swarmed like locusts in this vicinity. Meditating upon which the men of Coppei and of Touchet, banded for purposes of war on crime, and dignifying their compact by the term vigilance committee, started for Snake River. There the owners recovered their horses, but the only braves of the twenty-one revolvers then present were William Bunton and Clubfoot George, and these made good their escape. Afterward Bunton rode boldly into Walla Walla, and although the authorities knew him, and knew him to be there, they permitted him to escape, whereat the men of Coppei and of Touchet were very indignant, and opened a fire, regardless of grammar, through the columns of the *Statesman*, to which the sheriff replied in current slang no less refined.

When Fort Walla Walla was the centre of a savage wilderness all was orderly, and as a rule peaceful and safe. When near the fort the homes of settlers began to cluster, and the adjacent valleys were dotted with the white man's cabin, the advantage of bloody encounters among human beings was not recognized. But when

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the mines of Idaho and Montana opened a route to that region by way of the Pacific Ocean and up Columbia River to Wallula, and Fort Walla Walla became a point of departure for Boisé and Lewiston, and an entrepôt for miners' supplies, the gold-god then assumed his sovereignty, and with attendant fiery drink and deadly weapons wrought hate and bloody pandemonium. Patrol and vigilance organizations followed as a matter of course. How should a government capable of holding in check three or five thousand drinking, blaspheming adventurers of unharnessed tempers rise in the forests or drop upon the plain!

During the first half of 1865 the city and valley were more than usually infested by thieves and vagabonds. The jail was well nigh useless as a place of incarceration, and the law was utterly inadequate to protect life and property. The people were divided as to the right or necessity of the vigilance organization then existing. Upon the affidavit in April of one Dutch Lewie, who affirmed that he had been taken from his bed by vigilants and partially hanged in order to make him tell what he did not know, and confess to what he had not done, five persons were arrested, four of whom were immediately discharged and the other held to answer the charge of assault with intent to do bodily injury. Again about the same time a half-drunken, boastful vigilant was seized by the opposing party, calling themselves law and order, perhaps in irony, taken to a room, and, a handkerchief tied round his neck, choked in the endeavor to extort the names of the members of the Vigilance Committee.

During the winter of 1864–5 the residents along the Walla Walla River came together as one man, and organized a vigilance association, so that they might rid themselves of those that preyed upon them. Among other regulations the majestic red man was ordered not to loaf in that vicinity. To his kennel,

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the reservation, he was directed to go by this latter-day liberty despot, and there to eat the crumbs of civilization and dream of the time when he too ordered stragglers off his parks and hunting-grounds. This committee began by requiring all bad characters to leave. Those that disobeyed they hunted to the death. One Goudron was required to depart. Charles Fancy, a half-breed, was caught, and the question being put if he should be hanged, a majority of three voted in his favor. He was not long in quitting those parts when freed. A horse-thief was followed into the Blue Mountains, near the source of the Umatilla River, in April 1865, where he was captured and hanged.

The actions of the Walla Walla Committee about this time speak for themselves. Sunday morning, the 16th of April 1865, a cattle-thief, McKensie, was found just below the town, near the race-track, hanging to a tree. On Monday, the 17th, Isaac Reed and William Wills were found hanged at the Walla Walla River. These men were caught and tried by the committee at Wallula for stealing horses. They confessed to several thefts; to having horses then secreted on the Columbia River above Wallula, and to having killed one of their own number in a quarrel at their rendezvous. Next day, Tuesday, a negro called Slim Jim was found hanging to a tree about three quarters of a mile east of the town. He had stolen a horse, killed a colored man in the Boisé Basin, furnished two criminals implements to break jail, and served a term in the Oregon penitentiary: enough to determine the fate of the black man just then, though at another time he might have lived on and have doubled his catalogue of evil deeds. The Portland *Oregonian* of the 21st of April comes out in an editorial, beginning "Fifteen men hanged at Walla Walla." Dropping rapidly in the number of executions it finally asserts that its informant knows of six! Such is the reliability of report; and this within so short a distance.

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The following appeared in the Walla Walla *Statesman* of June 15, 1866:

"VIGILANCE COMMITTEE NOTICE.

"WALLA WALLA CITY, June 9, 1866.

"EDITOR STATESMAN:

"Will you give notice through the medium of your paper that the Vigilance Committee has been organized over a year, and during that time has not been entirely idle; but whether it has accomplished any good or not, the public are the judges. And the committee further give notice that they have made some amendments to their former plan of organization, which enables them to act more expeditiously, and with greater certainty in ferreting out the perpetrators of crime; and the committee stand ready to redress all crimes, and execute summary justice between the perpetrators of crime, no matter of what grade, and the interest of all good, well disposed, and law-abiding persons; and we make no distinction between officer and private, rich or poor, or vigilant and anti-vigilant. All are subjects for our action in the way of crime, and will receive equal justice at our hand.

"By order of the

"VIGILANCE COMMITTEE."

At Clearwater bridge in October 1871 one Jack Moran was hanged by the people for enlarging somebody's mouth and cutting off his ears.

What business New Dungeness, a little landing-place on the Washington side of Juan de Fuca Strait, has to talk about vigilance committees is beyond ordinary comprehension. With a good territorial government, a staid population, and no great influx of unruly strangers, it would seem that a handful of fishermen and traffickers might exist without resort to hempen justice. And yet I find recorded that on the 13th of June 1864 two men, Gould and Tucker, deserters from one of her majesty's ships at Victoria, and who had been the terror of the country for some time previous, were shot by those calling themselves a vigilance committee.

Further than this, a regularly organized vigilance committee, with its officers, sub-committees, No. 54 secretary, hanging-master, and all the appointments for efficient work, was formed, expatriating and exe-

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cuting *ad nauseam*. Here is one of their orders to leave:

"NEW DUNGENESS, July 10, 1864.

"TO JOSEPH CLIFFORD:

"Be it known to you that the Vigilance Committee of this place have arrived at the conclusion that you or your services are not wanted in this country any longer than this next week, for the reason of the threats made by you; and if you are found in this country after the 16th day of the present month you may expect what your fate will be.

"By order of the Committee, No. 54, *Secretary*."

Tucker, above mentioned, had received such a notice, to which he paid no attention, and death followed disobedience.

Two others received notice to depart about the 6th of May 1864. Says the Victoria *Chronicle:*

"They were ordered to leave the country for (as they say) being republicans, and the Vigilance Committee, being composed of democratic copperheads, wished to get rid of their votes and opposition at the election, the leader of the vigilants being a candidate on the copperhead ticket. The sentence was death should they return to that country. On Friday last our informants were on their way to Port Townsend from Victoria to attend court, when the canoe in which they were was blown ashore on Diamond Point, above Dungeness. They put up at a settler's house on the beach, and in the middle of the night were awakened by nine vigilants, all of whom were armed with guns and revolvers. They pinioned the two men and took them back to Dungeness in a plunger. On Monday the Vigilance Committee, to the number of forty or fifty, gathered together and tried the prisoners, who told them that they were on their way to Port Townsend to see the vigilants when driven ashore by the wind. The committee talked of hanging the men up forthwith, but the members were divided in opinion on the matter, the parties who opposed the hanging denying that the prisoners had ever committed a crime which would justify their execution. The men begged and prayed for life, and finally, on the promise that they would never return to Washington Territory, nor enter any suit against their prosecutors, they were liberated. They were allowed three days to sell their farms, which was effected at a ruinous price, and they left, arriving here yesterday. The Vigilance Committee have sworn to drive out or hang several other settlers, who at present are absent from the country, on their return."

Clifford and George Lawrence, who were favored with like notice to leave, were said to have been men of good character and long residence in Washington Territory. If we may believe C. M. Brad-

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shaw, writing from New Dungeness to the Olympia *Standard* the 11th of July 1864, though the organization was wide-spread, extending into the adjoining counties, it was a bastard association, and in no wise entitled to the name of vigilance. "Do not be deceived into the error that this mob is the people of this community," he says. "When it was gotten up no notice was given, no invitation to the public was held out to come in, but it was organized privately, only certain ones that they were sure were bad enough to do any act, however unlawful or bad, being invited to join; and up to this time they have no members but democrats and copperheads, and every man they have assailed thus far has been for the past two years a member of the union party." Mr Bradshaw was in error regarding its being a political organization with no union men in it. There were good men of both parties members of this association, but their mode of execution was simply cowardly murder, being to lie in ambush and shoot those whom in secret they had found guilty.

A bad element hung around Port Ludlow during the summer of 1865, and the people determined to be rid of it. The 14th of August two villains in open day knocked a man senseless and robbed him of sixty dollars, and then fled to the woods. Two friends of the robbers seeking to shield them were seized, whipped, and driven away by the people. Search was made for the robbers by the sheriff, who apprehended them and brought them before the justice of the peace. The citizens fearing escape, took them from the authorities and tied them to a flag-staff, where they confessed their crime and returned a portion of the money; then giving them a dozen lashes each, they placed them in a skiff and set them adrift, with a warning never to return.

In July 1866 the body of an Irishman who had been hanged by a mob was found under a tree near the Walla Walla River.

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Andrew Inkster, or, as he was generally called, Charles Adams, according to his own statement was the first discoverer of gold on Fraser River. In 1858 Inkster, then living near the mouth of Fraser River, was called upon, rifle in hand, by Charles McDonald to pay a debt due one McCaw of Steilacoom.

"I shall not pay it," said Inkster.

"If you don't I'll shoot you," McDonald replied, raising his rifle.

"Shoot and be damned!" returned Inkster, reaching for his revolver.

And McDonald did shoot, sending a bullet straight through Inkster's heart. Pursued by government officers, the murderer fled across the line and reached the American side in safety. Soon after he appeared at Steilacoom, where he figured as a desperate character for several years. Becoming virtuous, or desirous of monopolizing murder, in 1861 he gathered a mob, which he dignified by the name of vigilance committee, and drove Charles Wren, accused of crime, from his land near Steilacoom and took possession of it himself. Much trouble was then experienced by owners of land, caused by 'jumpers,' as they were called, seeking forcible possession. Thus matters proceeded when in January 1870 McDonald, growing bolder, leagued with certain bad men, Bergh, Gibson, and others, to jump some of the best farming land near Steilacoom. The people saw that the time for action had come, that they must prepare themselves to bow before villainy or oppose it. So bold had the claim-jumpers become that they openly avowed their purpose to resort to violence and murder if necessary to the accomplishment of their purpose, and on several occasions settlers had been shot at from thickets, and notices embellished with a death's-head and coffin were found in the post-office directed to citizens in various parts, threatening them with assassination if they refused to vacate their land. Forty of the set-

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tlers now banded, armed, and started in pursuit of the claim-jumpers. McDonald and Gibson hearing of it, started for Wren's claim to join Berg. The mob consisted largely of the old servants of the Hudson's Bay Company, French trappers, and half-breed fur-hunters, who had their own way of doing things, which, if bordering on brutal savagery, was honest and direct.

Justice, hunted and vengeful, had sought the thickets and there issued her verdicts in the shape of bullets, which whizzed past the ears of those marked for punishment. Seeing the desperadoes coming, the settlers hid, and as they approached fired upon them. Gibson fell, pierced with two balls. McDonald, slightly wounded, leaped into the thicket and started for Steilacoom, about five miles distant. Gibson was placed in a wagon and conveyed to town, where the settlers found McDonald, with his wound dressed, ready to fight. Some of the assailing party advised him to disarm, which he did; but meanwhile the crowd had consulted and determined to kill him. When McDonald heard of it, he asked for time to arm; they told him to do so, but as he turned to take up his gun, the word was given to fire, and bang! bang! followed in quick succession. The wretch ran shrieking into a billiard saloon, but soon he was fatally struck. Gibson, reviving, seized a revolver and discharged two shots at the enemy, when he was riddled with bullets. These people delighted in hunting; hanging was not their forte.

During the autumn of 1870 incendiarism was frequent at Olympia, when the *Tribune* suggested the organization of a vigilance committee "to hang the first man or men caught setting fire to property in Olympia." The *Standard* opposed the measure.

Considerable excitement prevailed about this time in regard to land-jumping, particularly in the southern part of the territory and along the line of the proposed railroad, where land had suddenly assumed fictitious value.

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At Port Gamble in May 1871 robberies round the mill camp becoming frequent, some Chinamen were suspected. Complaint was made and several arrested, but all denied the theft. This did not satisfy their accusers, whom the sheriff finally told to do with the Celestials as they pleased. It seems they pleased to hang two of them to a derrick until they were nearly dead, when unable to obtain a confession they drove them from those parts.

Mitchell, a half-breed, for killing an Indian at Tacoma the 17th of April 1873, was hanged by the people. Ten days later at the same place a native called Jim Shell killed Louis Moroe, a Canadian. The murderer was arrested, but was taken from the sheriff by the people and hanged.

Since the days of the California Inferno there has been no more prompt or thorough display of popular justice than that which occurred among the staid citizens of Seattle so late as the 17th of January 1882. The occasion of this display was the killing of George D. Reynolds, an estimable young man, by two footpads, James Sullivan and William Howard. Instead of throwing up his hands as ordered, he attempted to reach for his revolver, whereupon he was shot, and died in two hours. The people of Seattle were very angry; within two hours after the murder a committee of safety was organized and officered, and after two hours more the villains were arrested and delivered to the authorities. Brought into court the next morning, at the end of an examination wherein they had been remanded to the custody of the sheriff for trial, the inmates of the court-room rose in a body, and while some seized and held the sheriff, judge, and other officials present, others hurried the prisoners to their death. Lying in jail at this time was one Payne, convicted of the murder of Officer Sears, whom likewise the citizens hanged. A coroner's jury found in each case that the deceased "came to his death by hanging, but from the evidence furnished we are un-

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able to find by whose hands. We are satisfied that in his death substantial and speedy justice has been subserved."

The Northwest Coast had its halcyon days, when the fur companies found it to their interest to treat the red man kindly. Theft was then almost unknown. In their traffic with the natives, store-keepers were accustomed to give them credit; and it was found that when the savage was properly treated and trusted he was as honest as the civilized man. Justice Begbie, returning from a circuit along Fraser River, reports to government in April 1859 that there was on all sides a submission to authority, a recognition of the right, which he had not expected among so mixed a population, with so large a predominance of the Californian element. There were few complaints of any kind, and none of violent crimes; and this where law was little known and justice seldom sat in sedate robes. British Columbia, for the most part, has enjoyed from its earliest occupation a good government, much better than usually fell to the lot of the border communities of the United States.

In the summer of 1842 Sir George Simpson, then at the head of the Hudson's Bay Company in America, came from Red River to Vancouver, whence he proceeded to Fort Wrangel, on the Stikeen, near Alaska, to investigate the murder of John McLoughlin junior, son of the chief factor west of the Rocky Mountains. The deed took place in April of that year. Simpson arrived at the conclusion that the murderers, servants of the company, had been excited by McLoughlin's cruel and overbearing conduct. They had nerved themselves by stolen whiskey on the night of the murder. Every person in the establishment appears to have been mutually bound to kill him, so that no disinterested testimony could be obtained except to show justifiable homicide of a drunken, quarrelsome, and cruel man. But this was not satisfactory,

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and James Douglas was thereupon sent to search deeper into the matter. One man testified that every employé had signed a writing agreeing to murder McLoughlin, who seemed aware of his end, and who had affirmed to his wife that he would die like a man. McLoughlin fired first; his shot was returned, and after a respite the bullets of the mutineers stretched him low. McLoughlin's servant seems to have kept him informed of the plot, and was constantly on the watch for the attack, though the man confessed he would not defend his master. McLoughlin had flogged the men, kept them from going with other men, and was suspected of intrigue with a trapper's wife.

The officers and men of the Hudson's Bay Company were bound by strict agreement to subserve the interests of the company; they could acquire no personal or real estate outside their pay, and were subject to such punishment for neglect as the officer in charge might impose, having no appeal.

By 1845 the English government had extended the civil laws and jurisdiction of Canada over the North-west Coast, and had commissioned James Douglas, Angus McDonald, and Mr Work as justices of the peace in civil cases involving not over two hundred pounds. In criminal cases, if the magistrate found sufficient cause, he might send the accused to Canada. In all minor matters the Hudson's Bay Company's will was absolute. Their men were bound to obey officers like soldiers. Flogging was a common punishment inflicted by all, from governor down to petty clerk.

An Indian shot Mr Black, the chief trader at Fort Kamloops, in revenge for some injury. The fort was closed against the tribe, and no trade allowed till the murderer was given up and hanged.

Mr McKay had been killed by a native at the mouth of the Columbia River in a drunken brawl. An expedition set out to punish the tribe unless the murderer was surrendered. He was given up and

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hanged after jury trial. All the white men present hoisted him up on the gallows, strangling him, which proceeding filled the natives with horror.

In another case of the murder of a servant of the company by a principal chief, Mr Douglas went alone to the lodge of the chief and shot him dead. The white men were few, and none had dared to gain the reward offered by Douglas. These cases show the absolute sway of the fur companies over the natives.

In August 1846 a man jumped the claim of a Hudson's Bay Company's servant near Vancouver. Douglas, who was justice of the peace and county judge, gave the sheriff a warrant of arrest, and the man was put in irons. An American advised him to decide the case against his own people, or the man would bring suit for false imprisonment. The man accordingly appears to have received some compensation and to have been released.

The gold excitement had attracted from California a most reckless set of men, whose names had been duly recorded by the Vigilance Committee of San Francisco. The police had only been established at Victoria since July 1858, and consisted of some dozen untrained men, while no troops existed nearer than Esquimalt. A riot had caused a call to be made for troops to Victoria, which, however, were required merely to arrest a drunken miner.

By the Gold Fields Act of 1859 the acting governor of British Columbia was authorized to make laws for the regulating of mining districts. Actual settlers on agricultural lands were placed in fee-simple, under certain conditions, of one hundred and sixty acres of land. Besides magistrates for the respective districts a gold commissioner was appointed to look after the mines.

One day a blustering Yankee came to the governor and asked permission for a number of Americans to settle on some land. His request was granted on condition that they would take an oath of allegiance.

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"Well," said the Yankee, "but suppose we came there and squatted?"

"You would be turned off."

"But if several hundred came prepared to resist?"

"We should cut them to mince-meat, sir!"

This same governor, Douglas, while in charge of a trading-post, was one day informed by his officer that insubordinate natives were forcing their way into the fort, and the officer asked if he should man the bastion. Douglas coolly replied: "Give them a little bread and treacle." And indeed this was effective.

It was the province of California to bless and to curse. She has made many rich and has dropped happiness into many a distant home; she has wrung the very souls of those who courted her, and scattered health and hope to the wind. In like manner she has done her neighbors good and ill; good in assisting them to develop their resources and in giving them the benefit of experience, and ill in sending them the refuse of her population, cursing them with the very element which cursed her first attempts at nationality.

There was Ned McGowan, judge, gambler, and shoulder-striker of San Francisco, and refugee of vigilance, who, having done as much wickedness as California was willing should go unrewarded, went to British Columbia, where we find him in the winter of 1858–9 still stirring disturbance among men at Hill Bar, two miles from Yale. There he planted himself upon a mining claim and gathered round him a crowd of reckless imitators, so that in January the government was obliged to send troops to restore order. At Hill Bar one of the most intelligent of the miners was made resident magistrate; at Yale were two, one of whom being a rascal was dismissed, while the other, though honest, was unfit for the position. The three judges were at constant variance. Each laying claim to a certain case, the Hill Bar man swore in special constables, and removed the prisoner by force to his jurisdiction. Of these special officers McGowan was

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one. Being indiscreet in the use of his authority, to put the matter mildly, it was thought necessary to chastise him; but so gentlemanly and entertaining was he at the approach of punishment that he was only fined, when a severer sentence might have more evenly balanced his irregularities. Ned was by this time at home anywhere in the environs of justice.

The only two men who up to 1863 had attempted highway robbery in British Columbia failed to escape. "The extraordinary rarity of crimes of violence," say Milton and Cheadle, "is owing, we believe, in great measure to the vigorous administration of the late governor, Sir James Douglas, and the stern justice meted out by Mr Justice Begbie, but also in part, no doubt, to the nature of the country." Shut in by almost impassable mountain barriers, there was small chance for criminals to escape.

The Haidahs encamped near Victoria had been very troublesome for some time, and at last fired on a schooner. The chief of police sent a body of men to demand the surrender of the culprits and of all their arms. This was refused, and the governor sent marines to surround them, which had the desired effect. The offenders were brought to Victoria and publicly flogged—a great disgrace in their eyes—and all arms secured till the tribe should depart. A misunderstanding a few days after caused the arrest of two chiefs, Captain John and his brother. On reaching the police station the chiefs drew their knives on the officers, and were immediately shot.

At Metlacatlah mission, just south of Alaska, the magistrate had organized a native police, who are said to have been well disciplined and effective. There was a small calaboose of logs wherein the disorderly were confined.

In May 1864 the Chilicoten tribe near Bute Inlet robbed and murdered fourteen out of seventeen men who were building a road there. Shortly after a

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trading party met the same fate. The government pursued and hanged several.

The execution of a native called Harry for the slaying, while intoxicated, of a member of a neighboring tribe out of revenge for some ancient wrong was denounced as a legal murder, opinion being that he who sold the liquor should have suffered in the Indian's stead. There was comparatively little highway robbery in British Columbia. The cause is obvious; first there was less upon the highway to steal, and second, as we have seen, there was less chance of escape. There were some robberies round Cariboo, however; one, that of a Danish packer named George Gibson in 1866 while on his way across Bald Mountain from Cedar Creek. He was shot in the head, his twenty-five pack animals were scattered, and a large amount of gold-dust which he carried was taken.

Before the ægis of government overspread Wild Horse Creek and the neighboring gold-fields situated in British Columbia near the Rocky Mountains, just north of the United States boundary, life and property began to be so insecure that the miners found it necessary to band and make laws for mutual protection. Wherever gold is there is discord. Agricultural and pastoral societies can live harmoniously without laws for years; but once discover rich gold-diggings and the vultures of avarice fly in from afar and wrangle over the prey.

In this wild district there arrived one day in 1864 a collector of revenue. With him as assistant he had but one constable, and there were there fifteen hundred miners, who had come in from the adjoining territories, many of whom were known to be regardless of order. The officer found no difficulty however in executing his commission. Those who had assumed authority gladly resigned to him; and in six weeks after his arrival a code of laws, meeting the more salient exigencies of their condition, was in force and all dues paid.

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As in all the peltry-producing parts of the Northwest Coast, Alaska up to the time it came into the possession of the United States was governed by officers of the colonization and fur companies, whose *ipse dixit*, except in certain cases of the higher order, was law. Indeed the country was not then open to emigration and settlement, so that there was little opportunity for the display of free thought or action by the servants of politico-commercial monopolies. The natives were treated with the utmost severity by the Russians; they were made to work like slaves, and if disobedient or refractory were whipped or shot at pleasure.

In June 1802, in revenge for killing certain of their countrymen by the Aleuts in a quarrel, the Koloshes rose and took the fort at Sitka. In due time they were overcome and again placed under subjection to their former masters. Hundreds of such instances appear in the history of the pacification of the coast, and the only justice administered in the settlement of difficulties is that of the stronger arm and more powerful will. Retaliation was the law of the Europeans; humble subjection the necessity of the conquered. And for a small offence there must be great punishment. A hundred Koniagas for the life of a Russian sailor was deemed about fair; though if the Koniagas happened to be good seal-catchers justice would be satisfied with a much less number, or even perhaps with the lives of the women and children of the offending tribe.

A few incidents will tend to illustrate the quality of early justice administered in these parts. At Andreaffski in 1866, a deserted fort, there was once a Ekogmut village, some of whose people worked at the fort. One day when but two Russians were left in charge of the fort, and these were coming naked from a bath, the natives attacked and slew them. The Russians of Saint Michaels being informed of the tragedy, sent over a small force, who slaughtered every one in the village; since which time the natives

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of the lower Yukon have never dared to lift hand against their merciless masters.

For the killing of one of their number, or other injury, the natives of Alaska required payment in money or merchandise, and the government usually recognized their custom. In January 1869 three natives, a Chilkat, a Kake, and a Sitkan, were in some way killed at Sitka. Obtaining no satisfaction, either pecuniary or otherwise, the Kakes killed two whites in retaliation. War followed, in which the Kakes of that vicinity were well nigh exterminated and their village burned. So much for the Kakes. Five months later the Chilkats boarded a vessel and demanded money or life. A guarantee for the payment of money was given, and on the refusal of the commander at Sitka to recognize the claim the Indian agent paid the amount and so secured peace. At this time there were more drinking-saloons than private dwellings in Sitka. A court-martial was held at Sitka the 1st of April 1869 for the trial of James Parker for killing a native who had done some damage in a store in which the homicide was clerk. The verdict was that the act was not justifiable. Several soldiers were drummed out of service in November 1869 for robbing a Greek church at Sitka.

Eight murders within the three years ending October 1870 seemed a large number to slow and sparsely settled Sitka. The same amount of slaughter in Montana within a month would hardly have sufficed for gossip while it was being done. The Alaskans, however, did not like it that each murderer of eight, save one who was then in the military guard-house awaiting trial, should walk away unpunished. The savages did better justice than that. "We have seen women and children," writes one concerning military rule in 1870, "knocked down in the street by an army officer and United States postal agent; we have seen these two officers on the same day knock down poor inoffensive Russians, and the army officer hand

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the postal agent a pistol to kill an American. We have known army officers to force their way into private Russian houses and attempt to take liberties with the women inmates that in any other country but Alaska would have cost them their lives. We have seen two companies of soldiers stationed right in the city, many of whom were not fit to run at large or live outside the walls of a state-prison, and who forced themselves into Russian houses as though it was a part of their duty; and what has been the result of all this? Simply that all the refined and respectable portion of the Russian population have left our territory heartily sick of and thoroughly disgusted with the very name of an American. And who can blame them? Who will not blush when he reads that out of a Russian population of five or six hundred in Sitka there are not over three young girls of the age of thirteen years who are not prostitutes? And in making this assertion we challenge contradiction. The soldiers, stationed in the heart of the city, went around spreading contamination, disease, and a state of demoralization only surpassed by that which existed at the time Sodom and Gomorrah were destroyed by an avenging God. We regret to say a few of the army officers also acted more like blackguards than officers.

In February 1870, at the club-house in Sitka, a quarrel arose between Lieutenant-colonel Dennison and a discharged soldier named William Bird, who demanded five dollars for playing the banjo at a party given by Dennison. Finally Dennison gave Bird the money, which was employed in the purchase of fiery liquid to feed the musician's already inflamed temper. Bird then fell into a humor for slaughter; so making ready his pistol, he informed Dennison of the bent of his desire, when that officer gallantly slapped the soldier in the face and directed him to a less hyperborean climate than that of Alaska. Bird's reply was a bullet aimed at Dennison, but which took effect

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in the body of Lieutenant L. C. Gowan, standing near, killing him instantly. Bird was arrested, but while the constable was taking him to the guard-house the crowd seized him and undertook to hang him. It was a poor mob, a disgrace to the lynching profession. What did this refuse of battalions and whaling-vessels know of artistic hanging? First they threw a rope over the culprit and attempted to drag him through the streets. Then, as if fearful they might do something rash, they unloosed him, and taking him to a place proposed for execution, they fumbled a rope, as if with boneless fingers, until the mayor appearing alone and unarmed took the murderer by the collar and led him away, unmolested by the nerveless rabble.

At a Sitka bar-room in June 1872 a soldier broke some eggs in the basket of a Kolosh, who was offering them for sale. Words followed; the savage slapped the soldier, and the soldier kicked the savage. Khan-ahkich, brother of the egg-seller, took up the quarrel, and at the head of a party opened hostilities, and fired several shots. Major Allen, commanding, threatened the refractory natives with his big guns. The reply was, "Shoot, we are ready for you!" Uproar followed. To the clamor of the soldiers for permission to retaliate were added the insults of the Koloshes, who, when they failed to see the big guns belch destruction on their village, cried, "Boston tyhee is a coward!" At length the disturbance was bloodlessly quelled, and great credit is due Major Allen for his humane moderation in the affair.

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CHAPTER XXXIV.

THE POPULAR TRIBUNALS OF IDAHO.

Quel pouvoir inconnu gouverne les humains;
Que de faibles ressorts sont d'illustres destins!

Voltaire.

LITTLE ceremony attended the conviction and execution of horse-thieves in Idaho. To sit upon a stolen horse was dangerous at one time, as the position appeared to be evidence sufficient to warrant the owner in firing upon the person occupying it. Two horses were stolen from one Henderson, living at Boisé, in November 1863. Starting in pursuit, Henderson overtook the horses at Camas Prairie, each having on its back a rider. As soon as he came within range Henderson raised his rifle and fired, when one of the men dropped dead. The next shot brought down the other wounded. After all, retributive justice finds nothing so speedy as a leaden bullet. Leaving the two men lying where they fell, Henderson took the horses and returned to Boisé, giving information of what he had done at French Rancho, whose people immediately proceeded in quest of the bodies, though they did not find them until after dark. The thief killed was Hitchcock, *alias* Johnson; the wounded man was Mike Welch, who after disclaiming any knowledge that the horse had been stolen, died. Henderson's conduct, even if such arbitrary measures were necessary, was that of a desperado.

Probably the most notorious affair in the criminal annals of Idaho was the murder of one Lloyd Magruder of Lewiston, Idaho, and the capture, trial, and

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execution of the assassins. It was one of the few cases in which the people rallied to the support of the law, bolstering the fledgling by their presence and intimidating it into the performance of its duty; so that after all it was an arrest and execution by the people, but done under covert of the law. Left to officers of the law, there would have been no arrest; left to the court alone, there would have been no conviction. The people of Idaho in this case seemed determined that the law, if possible, should fulfil its functions, and in so doing are entitled to praise. They were but just now under law; and like the boy with a wooden donkey harnessed to his wagon, he could pull the load much better alone, only he was bound the donkey should go. Unfortunately such patience and magnanimity is ordinarily too much for weak humanity. The law was inadequate for the purpose, and the people soon found that theirs was the short and quick way.

In this instance the law did well; it did its best. The inchoate condition of territorial affairs and the absence of judicial implements rendered court trials, to say the least, but little better than play at law; and to make matters still more embarrassing, this was the first court trial of any kind, civil or criminal, which had been held in the territory of Idaho. The governor in November 1863 had divided the territory into judicial districts, and had assigned judges to each. On the 4th of December the legislature had convened, and had prescribed by law territorial districts, reassigning judges thereto. A special term of court was ordered held at Lewiston the first Monday in January 1864. Yet the trial of Magruder's murderers was a model piece of court proceeding, and for the causes aforesaid.

The statement of the case is as follows: Lloyd Magruder was a popular trader and packer living at Lewiston, Idaho, but doing business also in Montana. In August 1863 Magruder despatched a large

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pack-train with merchandise from Lewiston, Idaho, to Virginia City, Montana. Taking a short cut across the mountains, he selected a favorable spot in the new mines, pitched his tent, and on the arrival of his train opened his stock. By the 1st of October fourteen thousand dollars in gold-dust had taken the place in his affections of the goods and some portion of his pack-mules, and flushed with success the packer was now ready to return to Lewiston.

Meanwhile it appears that a gang of scoundrels had determined his destruction. Cyrus Skinner prompted the deed, and when, at first, fear was expressed for their own safety, Skinner reassured them by saying "Dead men tell no tales." He himself did not accompany the expedition. Chief among the villains was David Howard, familiarly called Doc Howard, an intelligent and educated man, brave beyond question, and skilled in the practice of his profession. In all affairs of the highway he was looked up to by his comrades as their leader. Christopher Lowry stood next in evil eminence, being as ready, as he expressed it, to kill a man as to kill a calf. Then there were James P. Romain, an apt scholar of Chris Lowry; William Page, timid but useful, as bold and conscienceless a crew as ever cut throat or dashed out brains for money.

It was arranged that they should gain Magruder's confidence while in Virginia and assist him, and under some pretext, after he should have turned his goods into gold-dust, return with him, and as opportunity offered kill and rob him.

Doc Howard planned the campaign, and, as the sequel shows, carried it to completion with consummate nerve and ability. Some of the men Magruder had met casually at Lewiston and The Dalles, but as none of them as yet were notorious for their crimes he knew nothing bad of them. It was the special business of Howard and his party to make themselves agreeable to Magruder, and they so far

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succeeded that he took them all into his service while in Virginia. This was a great success for the villains. The packer had need of temporary assistance in the disposal of his stock, and Howard and his comrades became the most affable and efficient of servants. The chief and his lieutenant acted as clerks in the store, and very careful were they that none of the dust handled in that capacity should stick to their fingers. Was it not all their own? Page looked after the stock, and Romain acted as cook. Thus the days went by; in due time the business was finished and the packer ready to return. It happened that four friends of Magruder, Charles Allen, William Phillips, from near Marysville, and Horace and Robert Chalmers, two Missourians, brothers, were about starting for Lewiston, and it was arranged that they should travel in company. Doc Howard and his comrades pretended concern in finding their occupation gone. They did not fancy working in the mines, they said; prospects for honorable employment were not very flattering, and they would by no means entertain any other; they believed they could do better at their old stamping-ground, The Dalles.

Whereupon the artless packer said to them, "Join us; you shall be welcome; your journey shall cost you nothing; you shall each have a fat mule to ride, and your poorer one can be turned out along with the stock; your presence will be additional protection." Mephistopheles himself could not have plotted and performed better than Doc Howard. With villainous gratitude the cutthroats accepted the packer's proffered kindness. All being in readiness the party set out from Virginia City in high spirits the 3d of October. Besides the fourteen thousand dollars in gold-dust, the proceeds of his stock and part of his pack-train, Magruder had remaining twenty-six mules, which with six mules and eight horses belonging to Allen and other members of the party, made forty animals.

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All went well until the eighth day from Bannock City, at which time a point was reached in the Bitter Root Mountains one hundred and ninety miles from any settlement, being west of the divide and between the Clearwater and Bitter Root Rivers. It was here Doc Howard proposed to make his stand and execute his bloody purpose. The two months' counterfeit of honesty to these men was becoming irksome; phantasms of throat-cuttings and skull-crushings had played with the imagination these many days, until the diabolic deeds themselves had become familiar, had been acted over and over many times, so that when the real acting of them came there was a coolness and precision about all they did, an audacity in the scope of their project, a fearlessness of consequence, a hellish abandon, an absence of race sympathy and humane feeling, unsurpassed in the annals of crime.

It was bright starlight overhead, though round the blazing camp fire the night was thick with dark design; white-sheeted was the ground with snow, but black enough the hearts that harbored this so foul treachery. Earth and sky sparkled in their purity; stygian stench came mingled with fair words from human breasts in which burned infernal fires. The custom was for two to be on guard during the night. The guard was relieved at twelve o'clock. It is now ten, the hour appointed for the slaughter. Two tents are pitched, and not far distant blazes the camp fire. Just over the hill the mules are browsing. In one tent sleep the two Missourians; in the other, Phillips, with Romain as a bedfellow, Allen a little apart, and Page, who petrified with fear lies buried in his blankets, for he is informed of that which is at hand, though by reason of his sunken soul he is excused from active participation in it. Magruder and Lowry are on guard. Howard lies hidden in the bushes near the animals. As if returning from the stock, Lowry approaches Magruder, who is seated by the camp fire,

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and informs him that the animals are restless, and suggests that a brush fence be thrown across the trail to prevent their wandering. Magruder rises, takes up his gun, from which the caps have been removed, and starts off with Lowry, who carries only an axe. When near where Howard is, Lowry stops and begins to cut brush for the fence. Magruder stoops to gather the brush, when Lowry raises the axe over him and bringing it down buries it in his brain. Howard rushes out, having also an axe in his hand, and gives Magruder's head two or three additional blows. Howard and Lowry then proceed to the tent of the two Missourians, and each with his axe slays one. Taking then their guns, they enter the other tent, which is the signal for Romain to strike. The cry of Phillips, as Romain's axe cleaves his skull, rouses Allen, who is immediately shot by Howard, and this most belluine of butcheries is finished.

The next thing to be done was to cover all traces of their foul murder, that it might not be too quickly discovered, that the country might not be aroused before they should have time to escape it. For that this blood should cry to heaven to be avenged, they did not dream of aught else; but let now the rocks and mountains fall on the gory evidence of their guilt until they should make good their flight. As it was, even the snow and starlight were painful to them; for all nature, grown satanic, seemed now to laugh and dance as in derision.

Wrapping the bodies of the murdered men, some in blankets and some in tents, the murderers carried them to the top of the ridge and rolled them over a precipice; when, returning to camp, they built fires over all the blood-bespotted ground, one out where Magruder was struck, and others over the tent floors, but like the blood of murdered Abel, the damning evidence would not hush. Though they made great fires which should consume all material things connected with that night's work and threw into them

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the camp equipage, pack-saddles, bridles, ropes, cooking utensils, and provisions; and though they afterward picked from the ashes the pieces of iron which would not burn, and putting them into gunny bags carried them down the hill and hid them behind a log, throwing the superfluous guns into the bushes; and though they likewise washed their bloody hands, and buried their bloody axes, and burnt their bloody clothes, and scattered the ashes, so that in the morning scarcely a vestige of the camp remained; and though they even threw off their boots and made moccasin tracks all round the place and on the ridge, thus attempting to lay their accursed deed at the door of that scape-goat of border ruffianism, the much maligned savage—yet the all-seeing heavens would not cease to cry it aloud, nor the impregnated air to whisper it wherever winds blew.

Driving the animals some distance from the trail, across a stream and upon a small prairie, they shot all but eight mules and one horse. Then taking the gold-dust which they had picked from the pockets of the murdered men, and which, as is usual in such cases, was not as much as they had expected to find, they rode on to Lewiston. Entering the town about nine o'clock on the night of the 19th of October, they put up at the Hotel de France. Four mules they had dropped on the way; the remainder of the animals, accoutred as they were with saddles, blankets, cooking utensils, and guns, they left with a friend, to be called for. Page then proceeded to the stage office at the Luna House and engaged seats for four passengers to Walla Walla, registering the names as Smith, Brown, Perkins, and Clark.

As might have been expected, these foolish proceedings on the part of the robbers did not pass unnoticed at Lewiston. Page had been recognized by a watchman while disposing of the animals; and at the stage office next morning the four men answering to the four commonplace names were closely regarded

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by Hill Beachy, the stage agent, and others. After they had started the stage-driver noticed that they carried considerable gold-dust. Continuing their journey to San Francisco, wherever they stopped they assumed new names, and frequently deposited their gold with the hotel clerk for safe-keeping during the night. Arrived at San Francisco, Page and Lowry took lodgings in a private house, while Howard and Romain went to the Lick House. The gold-dust they deposited at the mint for coinage.

Meanwhile the people of Lewiston wonder where Magruder is, and why he does not make his appearance. From the Beaver Head country men arrive saying that the packer's party had left two days before them and should now be there. The stage-driver returning reports certain peculiarities of the four passengers. Closely following the surmises hence arriving come tidings of the dead bodies of Allen and Phillips, known to have been of the Magruder party, and the air round Lewiston becomes thick with suspicion.

Taking the affair from this point, what follows forcibly illustrates the difference between the ability and energy of court officials and the average man of business in ferreting criminals and bringing them to punishment. Every thought and action of the one is hampered by form, while the other is free to employ his wits and to follow them. A most diabolical murder has been committed; the bodies of slain citizens are lying in the mountains while their butchers are rioting upon the proceeds of their crime in the city. And there law would leave the matter impotent to avenge; but so will not Hill Beachy. True, interest and friendship unite to spur the stage agent. There is a large amount of money involved; reports of such wholesale slaughter along the main line of travel in Idaho circulated about the world can but be damaging to his business, by deterring immigration; Magruder is a man of family, a personal friend of

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Beachy. But if our system of public service and our court enginery were what they should be, were what those who live by them affect to believe them, surely there should be some means of manufacturing enthusiam in the breast of a public officer.

Going round where the animals were stabled, Hill Beachy recognizes the horse and one of the mules as the property of Magruder; likewise a saddle and canteen, the former with blood upon it, he knows to have been Magruder's. Further investigation fixed the identity of the four passengers. The stage agent now remembers their presence and departure eastward about the time Magruder went away. As if by inspiration the whole plot flashes upon him. Magruder is murdered for his money, and the four men are the murderers. With scarcely a moment's hesitation the stage agent determines to follow the assassins and bring them to justice. Without difficulty he tracks them to San Francisco and secures their arrest.

Says Page in his confession: "Lowry stopped with me at this private house on Dupont street; we were arrested by Captain Lees of the police at this house; the other two were at the Lick House. When we were first arrested we were put into a private room and guarded closely. Howard was acquainted with the captain of police; there was an arrangement to get out a writ of *habeas corpus;* the captain was to have all but one thousand dollars; after this we were all put together so we could tell one tale." The attempt to release the prisoners under a writ of *habeas corpus* failing after several hearings before the court, the four men were delivered to the stage agent, who had been sworn in as deputy-sheriff, and with the assistance of two men who had accompanied him from Idaho the prisoners were brought back to Lewiston, where they arrived on the 8th of December, stopping at the Luna House.

In other times, before and since, these men would have been seized and hanged by the people before

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ever they had reached Lewiston. Within the year the Lewiston Vigilance Committee had executed three men for a tithe of the present villainy. On this occasion, as if by common consent, it was resolved to let the law do the work. They had a new governor, a new judge, and bright unused court machinery; of all which they were very proud. They were tired of stringing and strangling, and were only too glad that their great and good uncle at Washington had sent them these thief-traps and rogue-exterminators, and now they were curious to see them in operation. Hence it was when the four prisoners entered town there was no violent demonstration, and they were allowed to remain in the stage agent's hands, as a deputy-officer of the law, during trial.

Previous to the trial Page made a full confession, which rendered the work of the court easy, and for which he was excused from being hanged. It is another of the oddities of law that the punishment of one of the vilest villains of the gang is mitigated as a reward for yet more dastardly meanness, enticed thereto by the law in the hope of saving himself at the expense of his comrades. Tried and condemned, though denying the truth of Page's statement, Howard, Lowry, and Romain were executed at Lewiston the 4th of March 1864. Page was shot by a low character at Lewiston the 25th of December 1866 and instantly killed.

When in May 1864 the Idaho Vigilance Committee suspended active operations they summed up the work accomplished, and found the result to be twenty-seven thieves and murderers hanged and a gang of desperadoes broken up during the year previous. These had murdered more than a hundred men, besides committing numerous minor robberies.

The Committee at this time did not disorganize nor even disband; they merely rested for a time. But this rest was of short duration. Crime, intimi-

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dated for the moment, broke out anew, and the Committee found it an absolute necessity again actively to take the field. Two years later we hear from them in the following incident:

The grand jury reporting at Idaho City in May 1864 found nine bills for murder and thirty for assault with deadly weapons, which for the law was doing very well in a town so new as to have neither church nor school, and, as in the ruby days of California, where large and brilliantly lighted gambling saloons were in full blast day and night with loaded tables, revolvers, and bands of music.

A vigilance committee was formed at Payette Valley in the winter of 1864–5 for the purpose of clearing that neighborhood of the numerous horse-thieves and gold-dust counterfeiters. A den of these counterfeiters was broken up about the 1st of January, their implements being seized. These consisted of a mill in which they ground their bogus dust, a lot of spelter, and some crucibles. Five men were captured. There was an immediate scattering of the fraternity in every direction. Some fled to Auburn, others went over into the Grande Ronde Valley, and others crossed the mountains to Walla Walla. In boldness and duplicity the desperadoes of the region round Payette and Burnt rivers equalled any in the Pacific States. Pack-trains were frequently waylaid, such of the merchandise taken as the robbers could use, and the mules driven off. Highwaymen and cattle-thieves often dressed as Indians and took special care that the ground about the scene of an onslaught should be well covered with moccasin tracks. In one of their camps were found by a surprise party all the paraphernalia for Indian imitation, bows, arrows, tomahawks, skins, scalps, and the like.

In Idaho at this time politics was a sentiment which affected local interests about as much as an Alaskan north wind affects a norther of the Mexican gulf. In the summer of 1865 a gambler, Patterson, a seces-

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sionist and democrat, shot an ex-sheriff, Pinkham, a union man and republican. The former saved himself from popular fury by immediately delivering himself to the law. The grand jury was in session at the time, but failed to indict him, and he was held for another grand jury. Meanwhile the people thought they saw more politics than justice in the proceedings, and organized a vigilance committee for the purpose of taking Patterson from jail and hanging him. The authorities, law and order men, and secession sympathizers rallied to the protection of the prisoner, and gathered round the jail to the number of one hundred and fifty men, well armed with rifles and revolvers. Opposed to them gathered three hundred armed citizens. Each side drew up in battle-array. The citizens occupied the streets leading to the prison and the hills adjacent. After three days' manœuvring, attended by no little *brutum fulmen*, the people withdrew their forces, leaving the felon-worshippers masters of the situation. Party spirit was the actuating motive on either side rather than simple love of justice, and firing once begun, a bloody battle would have been the inevitable result. In due time the case was brought to trial; the prisoner was found not guilty, and, with the congratulations of the judge, was discharged.

Says the Boisé City *Statesman* of the 3d of September 1865:

"We doubt if the legal annals of any country on the continent can present a parallel to this state of things. People have ceased to feel that life is protected by the law; they have ceased to feel that punishment follows crime; and hence good men, who would gladly let the law take its course if it could be enforced, feel that they must either protect themselves without the forms of law or they will be a prey to a legal lawlessness worse than mob rule itself. We know that this is a bad state of things. We can realize why men feel driven to the desperate expedient of lynch law, and while we do not approve we feel hardly able to denounce it.

"There should be no excuse for such things. If men in authority did their duty there would be none. It is the abiding conviction of many of the best men in Boisé County that the machinery of the courts is but a farce to enable criminals to escape. It is not a thirst for blood on the part of good citizens

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that leads them to encourage vigilant organization, but it is a desire for justice, a wish for protection, and a belief that there is no other means for attaining the end. When men like Patterson are surrounded by a crowd of roughs who evince a determination to prevent a fair trial according to the form of law, then the better class cease to respect those forms. It is notorious that Patterson, instead of being treated as any other person charged with crime, is the recipient of the finest hospitalities that the jail affords. A fine room, fitted up in the best style for a gentleman, not inside, but outside the prison, is his house. He is surrounded by guards whom many honest men believe unsafe and untrustworthy, who they believe intend simply to protect him from his enemies, and not enforce the law if it should be against him. He walks the street with a single man at his side, and from whom if he chose he could escape at any moment. Now if he be entirely innocent, we tell the authorities it is no way to enforce the law. You bring discredit on yourselves by this conduct if you are acting in good faith. Treat all criminals alike; show a disposition to enforce the law against all in the same just way, and no one will suspect your integrity. Show to the people that though a man may have friends by hundreds banded for his protection, the law shall have due course, and they will cease to complain and organize to execute the law for themselves."

Up to this time, if we may believe the district attorney, within the limits of Boisé County there had occurred some sixty deaths by violence without a single conviction of murder in the first degree. So late as January 1866, there was no territorial prison in Idaho and no prison facilities for the safe-keeping of territorial prisoners other than the provisons that the county jails of Boisé and Nez Percés should be considered such temporarily. Every new community is obliged at an early date to provide lodgment and food for its evil-doers; and among the first contributions the people are called upon to make are those for the building of some structure, perhaps the most imposing in the state, as a caravansary for criminals. Thus it is that, whether at large or under confinement, thieves and murderers subsist at the expense of the honest and industrious. It is little wonder, then, that impatient border men should favor short shrift for these troublesome and expensive vermin. It is a sad commentary on human nature that the cry of penitentiary is heard as among the first necessities of association. Punishment constitutes the primary pleasure of government.

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David C. Updyke, sheriff and tax-collector of Ada County, was arrested on the 28th of September 1865, charged with defrauding the revenue and for failing to arrest West Jenkins. Alfred Slocum, treasurer of Boisé County, was arrested in January 1866 for defalcation to the amount of about eight thousand dollars. Updyke was soon at liberty, under bonds, but they were bonds which were easily broken.

The Ada County Volunteers, of which Reuben Raymond and John C. Clark were members, had recently returned from a raid upon the natives. The 2d of April 1866 a case concerning transportation for the company was before the court, in which Raymond testified. Next morning about nine o'clock, while Raymond and another were disputing about the facts in the evidence, Clark came up, joined in the quarrel, and soon Raymond gave him the lie. Thereupon Clark rushed upon Raymond, who dodged and drew his pistol. Clark then drew. To some by-standers who now attempted to interfere, Raymond said, "Don't be afraid; I am not going to shoot."

"Shoot!" cried Clark, "I'm going to fire."

"I don't want to shoot," returned Raymond; "I'll give you the first shot."

One would think so magnanimous an offer would have disarmed any but a venomous reptile. Taking deliberate aim Clark pulled the trigger. The cap snapped without exploding the charge. Again he repeated the operation, this time with fatal effect. Raymond made no attempt to shoot; he received Clark's ball in the abdomen, and next day died. Cark was committed for murder.

On the night of the 7th of April, Clark was taken from the guard-house at Boisé City by some twenty masked men and hanged just outside the town, upon a gibbet constructed with three poles. Pinned to one of the poles was the following notice:

"No. 1.

"Justice has now commenced her righteous work. This suffering community, which has already lain too long under the ban of ruffianism, shall

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now be renovated of its thieves and assassins. Forbearance has at last ceased to be a virtue, and an outraged community has most solemnly resolved on self-protection. Let this man's fate be a terrible warning to all his kind, for the argus eye of justice is no more sure to see than her arm will be certain to strike. The soil of this beautiful valley shall no longer be desecrated by the presence of thieves and assassins. This fatal example has no terror for the innocent, but let the guilty beware, and not delay too long, and take warning.

"XXX."

Says the Carson *Appeal* of the 28th of April 1866:

"It will be remembered that Clark was recently committed to answer to the charge of murdering Reuben Raymond. He was deemed guilty of wilful murder, and the citizens prevented his living long to enjoy the achievement. He was forcibly taken from prison and executed by men in disguise. Parties who condemned the act and actors soon found their occupation gone. The city was threatened with fire, and everybody thus warned is prepared and will prevent incendiarism. From all we can learn, if a certain behavior is noticeable, there will be considerable work for the coroner, undertaker, and sexton at the capital. We hear it stated that this is an extension of the Montana Committee, and that all the through and cross stage lines are favorable to the organization; also that leading citizens lend their smiles. In view of the prompt and scientific manner of execution just adopted in Idaho, men of illegitimate occupations would do well to reform or emigrate. However wrong the method of punishment, facts must not be ignored. It don't change the real state of facts to charge the vigilants with the commission of the same crime of which their victims were guilty. The Boiséites have others in view, or why label this subject No. 1?"

On Saturday the 14th of April 1866 the body of D. C. Updyke was discovered at Sirup Creek, hanging in a shed between two houses, with the following notice pinned to the body:

"DAVE UPDYKE,

"The aider of murderers and horse-thieves.

"XXX."

Next day a few miles down the creek the body of James Dixon was found hanging to a tree. Monday morning, posted on Main street, Boisé City, written by the same hand that wrote the notice fastened to the swinging bodies, was the following:

"DAVE UPDYKE,

"Accessory after the fact to the Port Neuf stage robbery.

"Accessory and accomplice to the robbery of the stage near Boisé City in 1864.

"Chief conspirator in burning property on the overland stage line.

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"Guilty of aiding and assisting West Jenkins, the murderer, and other criminals to escape, while you were sheriff of Ada County.

"Accessory and accomplice to the murder of Raymond.

"Threatening the lives and property of an already outraged and suffering community.

"Justice has overtaken you.

"XXX."

"JAKE DIXON,

"Horse-thief, counterfeiter, and road agent generally.

"A dupe and tool of Dave Updyke.

"XXX."

"All the living accomplices in the above crimes are known through Updyke's confession, and will surely be attended to.

"The roll is being called.

"XXX."

Commenting upon the execution of Clark, and on affairs in general, the *Idaho Statesman* of the 22d of April says:

"For something more than two years this territory has been ridden and ruled by both organized and unorganized bands of men, who have made highway and private robbery, burglary, and murder when necessary for that purpose, their profession; juries and officers of the courts have been terrified by their threats from a discharge of their duties, and in some instances they have succeeded in being elected to offices of trust only to betray the too confiding public into the hands of their bloody confederates, or to assist criminals to escape rather than to discharge their duty by bringing them to justice. Burglary, robbery, and murder were of almost daily occurrence and defied detection. And when there was a faithful officer to take the track of an offender, he soon found his prey so well guarded by confederates that capture was all but an impossibility. And when, as it sometimes happened, an arrest was made, witnesses, jurors, and prosecuting officers were threatened with speedy death if they dared to go on in the discharge of their duty, to such an extent that criminal trials have become a mockery. Good citizens have trembled for their personal safety for having served on a grand jury. The express and stage companies have been obliged to conduct their operations with the utmost secrecy to avoid robbery by villains whom they knew to be daily in their offices and on their stages watching for opportunities of plunder. If a merchant intended to leave town on business he used every precaution to conceal the time of his departure, so as to lessen the chances of being robbed. It is useless to state what is so notorious a fact, that a multitude of the foulest murders have gone entirely unpunished. To such a degree has this state of things existed that the law seemed to present no check to whatever outrages the villains that habitually prey upon society choose to commit. It is true the territory had laws, but a reign of terror prevented their execution. Space forbids us to mention the numerous atrocities that make up the long list committed here in Boisé City. The last one was the deliberate murder of Raymond, because he testified to the truth in a court of law. Before his almost

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lifeless body was removed from the place where he fell, D. C. Updyke stepped up to a prominent citizen of this place and significantly said, 'That affair grew out of the lawsuit yesterday, and there will be many more like it.' The whole tenor of the preliminary examination of Clark gave the assurance that the same means that had defeated justice so often before were to be used to their utmost in this case. That Clark was committed to await trial, and afterward seized and executed, is well known. Updyke was most ferocious in his threats against several citizens, whom he charged with having a hand in the execution, and finally as he left town announced his intention of returning to pay Boisé City one more visit to get even, or to that effect. He has been executed, as also a confederate who went away with him. As to the terror that has reigned for the last two years, it has come to an end. Good citizens and peaceable men walk the streets and go about their business in comparative safety. The grand jury that is now in session, when their labors are done, may disperse without danger of being assassinated for the discharge of their duty. There is no alarm in the community and no terror for any one except those who prey upon society and their fellow-men. Such is the exact condition of affairs to-day."

The Idaho *World*, printed at Idaho City, was the law and order, democratic, and anti-vigilance organ of the day. The *Idaho Statesman*, printed at Boisé City, favored the vigilance party. One saw evil in every popular movement; the other only good. The death of P. M. McManus, reported as the result of the accidental discharge of his own pistol on the night of the 8th of August 1867, is charged directly by the *World* upon the Vigilance Committee as a murder. All in due time it came round, however, that murderers were permitted to pursue their avocations in peace; so that when, on the 31st of March 1868, J. Marion More, the discoverer of Boisé Basin, was killed, the *World* complimented the people on their good behavior. The killing of More grew out of a dispute between the Ida Elmore and the Golden Chariot mining companies, involving the boundary lines of the respective claims. In the dispute More had acted on behalf of the Ida Elmore claim. Matters were satisfactorily adjusted between the companies; and it was in an after discussion, mingled with fiery potations, that the killing occurred.

Jimmy Powers, Jimmy Reed, and Jack O'Neal were taken from prison at Bear River City the night

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of the 10th of November 1868. Next morning the bodies were found suspended from a beam of the building with a notice pinned to each to the effect that other garroters of that or other bands if caught would be similarly treated.

Chung, Kum, and Fung, each with an Ah before his name, seized a fourth Ah at Grimes Creek in October 1869, whom they claimed had spirited away five hundred dollars of their earnings, knowledge of the whereabouts of which they hoped to reach by the 'Melican process of strangulation. A butcher happening to pass, notice was given of the affair; the Chinaman in chancery was released and his tormentors committed.

In 1870 the *Idaho Statesman* thus reviews the annals of crime in that territory for the eight previous years:

"Four men have been shot to death in Idaho during the last two weeks. And something like two hundred have been hurried into eternity during the last eight years at the hands of violence, a large proportion of them downright murders. Five murderers only have been hanged by the courts in the same length of time, three of them the villains who killed Magruder, the fourth Sim Walters, who killed Bacon, the fifth one Anthony McBride, who murdered a Chinaman three years ago. Many of these murderers have gone to other territories, and in turn got killed or hanged; some have died, some are scattered about, and the remainder are still in Idaho running at large. One or two, we believe, by some mismanagement are in prison, but will no doubt be released at the term of court being held at Idaho City. The ratio of bloody crime is increasing and will increase until the law is more rigorously enforced."

James M. Wood had lain in the Lewiston jail some six months for the murder of Thomas Duffey, and had been tried and convicted, when Governor Ballard commuted the death sentence to imprisonment for life. The people, however, from the first had determined the man should die. About four o'clock on the morning of the 13th of January 1870, a body of armed men disguised as Indians approached the prison, and while some of them quieted the jailer with their display of pistols, others took the prisoner to

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the junction of the Clearwater and Snake rivers, and in an unoccupied building hanged him until dead. This action on the part of the people was not the result of momentary excitement, but of months of calm reflection. They felt that a great crime had been committed, that the man Wood had had a fair trial, and that the verdict of the jury was just. They could not therefore see justice robbed by a weak or corrupt official.

Reviewing the past and surveying the present, the editor of the *Idaho Statesman* the 25th of June 1870 writes:

"In all newly settled countries we naturally expect for a while a laxity in the enforcement of laws and an undue prevalence of crime. Idaho cannot, or at least should not, be classed under this head. We have been an organized territory for over seven years. During that period we have enjoyed everything allowed by the central government to a territory; we have our schools, churches, civic societies, and newspapers; we are within prompt and early communication with the commercial marts of trade and centres of intelligence, refinement, and civilization. We have our courts of justice, an able and intelligent bar, jails, and a penitentiary for the reception of malefactors. But notwithstanding all this, if asked if crime is punished, we are compelled to answer in the negative. Since the organization of the territory there have been but two legal executions in the counties of Ada, Boisé, Alturas, and Owyhee. Murders have been so numerous during the same period that we are unprepared to give the list without consulting the records. We will take, however, the past year, commencing with July 4, 1869: In the cities of Silver, Boisé, and Idaho, in a little over eleven months, eight murders have been committed. Of this number four of the perpetrators were acquitted; one is still confined in jail, trial having been postponed on the plea of insanity, which, as we all know, is equivalent to acquittal; one was convicted of manslaughter and sentenced to ten years in the penitentiary, but pardoned after about two months' confinement, on the petition of numerous citizens of Owyhee, it having been represented by them to the executive that he had shot the wrong man, therefore no crime was committed, and the killing was lawful. Another case, a Chinaman, upon being convicted of murder and sentenced to be hanged, committed suicide, showing that he concurred with the verdict of the jury. Shooting and stabbing affrays have also occurred during the same period, not resulting in death, too trifling, however, to attract the attention of the people. How does all this appear abroad? Is it calculated to encourage immigration? Can we expect our fertile valleys to be filled with an industrious class of farmers, our cities with intelligent mechanics and artisans? No; such people only emigrate to places where laws are enforced, peace and quiet prevail, and life and property are protected.

"Wherein does the remedy for these evils lie? Chiefly with the court.

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A judge should go on the bench firm and impartial, with the courage and learning not only to vindicate the majesty of the law, but also to do justice to the prisoner, whoever he or she may be. We can relate at least one criminal trial, of very recent occurrence, in which the unmistakable and unwarrantable bias of the judge, David Noggle, had the effect of creating in the mind of the jury a determination to acquit. Again, another evil to be done away with is the reckless and unthinking manner in which petitions are gotten up in behalf of convicted felons. A morbid feeling of mistaken friendship in a few awakens in the breast of the many a sickly sentiment which wrongfully assumes the garb of mercy, thus indirectly giving encouragement to the further perpetration of acts of crime. This subject will bear referring to again, and we shall do it until the people have awakened to the necessity of a strict enforcement of the law against those who shed human blood so recklessly."

At Idaho City, at eleven o'clock the 21st of July 1870, the prisoners, seven or eight in number, took forcible possession of the jail. The keepers were driven within the grating and confined there; the prisoners then seized the arms and partially made their escape. The citizens quickly rallied and captured all but one, Williams, from Owyhee. There was considerable firing and three were wounded.

There was a man named Walters lying in the Lewiston jail, who, according to the terms of his sentence, should have been executed the 9th of June 1871, but to the indignation of the people the sheriff failed to perform his duty. Hence it was the Indian disguise was again assumed by the Committee, and on the night of the day on which Walters was to have suffered, the jail was forced and the prisoner executed. It seems that the prosecuting attorney had persuaded the sheriff that the sentence was illegal, and that it was his duty to disregard it. The gallows had been erected the day before the execution, but had been subsequently taken down by friends of the prisoner.

Simms, a resident of Payette Valley, was hanged by the people in May 1874 on a charge of fraudulently concealing cattle belonging to a Mrs Ray.

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CHAPTER XXXV.

POPULAR TRIBUNALS OF MONTANA.

Tender-handed stroke a nettle,
And it stings you for your pains;
Grasp it like a man of mettle,
And it soft as silk remains.
'Tis the same with common natures,
Use 'em kindly, they rebel;
But be rough as nutmeg graters,
And the rogues obey you well.

Aaron Hill.

MONTANA, that is to say *montaña*, or mountain, dates its territorial organization May 1864, prior to which time it was part of Idaho, from the north-eastern portion of which territory it was mostly taken. The region is rich in agricultural resources as well as in minerals. More than a quarter of a century ago the Jesuits founded a mission on the Cœur d'Alêne River, and there taught the savage tribes the gentle precepts of the Christian faith.

In the spring of 1862, in Deer Lodge Valley and on Hell Gate River, gold was first discovered within the limits of this territory. Silver was first found at Rattlesnake Creek opposite Argenti, and shortly after at Prickly Pear Creek. The Bannock City or Grasshopper mines, on Grasshopper Creek, were discovered in July of the same year. In Fairweather Gulch, a rich mining district through which flows Alder Creek, a tributary of the Stinking Water, are situated the *soi-disant* cities of Virginia, the capital of Montana, Nevada, and Summit. North of Bannock and Virginia, at the Prickly Pear mining district, is the town of Helena. At the Rattlesnake silver mines on Rattle-

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snake Creek, ten miles north-east from Bannock City, is Montana City, founded in 1865. For a wilderness, whose largest settlements can boast no better town than a huddle of log and board huts, this is a wonderful country for indigenous cities.

Sheriff of Montana in 1863 was Henry Plummer, chief of the road agent band. Many and contradictory are the versions given of his early life. He came to California in 1852, settling for a few years in Nevada City, where in 1856 he was made marshal. Before his term of office had expired he was convicted of the murder of Vedder, a German, from whom he had alienated his wife, and was sentenced to ten years' imprisonment, but on the plea of ill-health was pardoned by Governor Weller. Another murderous assault, which ultimately proved fatal, and a stage robbery followed; for the latter he was tried but acquitted. Now his record of crime becomes rapidly lengthened; he breaks jail, and assisting in the escape of Mayfield, another murderer, eventually reaches Bannock, Montana, where his career ends. He had eluded pursuit on his way thither through notices that he himself had published in California papers of his execution in Washington Territory.

Henry Plummer was not only a most daring man, but a leader who carried everything before him. In spite of his established character he secured the election for himself as sheriff not only of Bannock but of Virginia, and the appointments of his road agents as deputies. Bannock now became the head-quarters of a noted band of cutthroats and highwaymen.

For a time this worked admirably for the roughs, as they could rob and murder with impunity. After they had killed over one hundred and twenty citizens, and plundered stages, express shipments, and private individuals, no one dared to leave with or send money or dust out of the country. Any one who dared to demur to this order of things or suggest that the robbers were other than honest men

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and gentlemen, did so at the imminent peril of life and fortune.

Under such conditions travellers were entirely at the mercy of the band, and while I give some few details of their crimes, many atrocities were committed which are unrecorded and unknown. Their system of stage robbery was most complete, as is illustrated by the following incident: In October 1863, as Peabody and Caldwell's coach was *en route* for Bannock, carrying considerable gold-dust and several passengers, difficulty was experienced in obtaining horses; two or three times it was found that the corrals were empty, and men were despatched to hunt the missing stock. At Dempsey Cottonwood Rancho, a rendezvous for Plummer's band, they took up as a passenger Dan McFadden, better known as 'Bummer Dan'; at Rattlesnake Rancho, which was not reached till evening, owing to the delay, they found that here also the horses were turned out. Another delay of several hours, and then with worn-out teams the heavy load was again on its way. All this delay was in furtherance of the plans of the road agents. Bill Bunton now mounted the driver's seat, ostensibly to assist with the whip. Before long he left the driver, Rumsey, to manage the horses alone, and entering the coach sat beside Bummer Dan. In less than five minutes the coach came to a stop; two men, muffled in hoods and blankets, ordered a "halt," and with raised rifles and the dialect of a Dutchman told the driver to "throw up his arms." At the same moment their accomplices in the stage manifested the greatest terror, by way of example to the other passengers; and at the command of the highwaymen all got out of the stage and threw up their arms. Bunton begged piteously for life and gave them his purse, as did also Bummer Dan, while the other passengers were searched, offering no resistance. In this robbery twenty-eight hundred dollars were secured by the band. Frank Parish and George Ives were

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the two highwaymen in this instance. When the stage reached Bannock notice was at once given at Peabody's express office, where George Hilderman, another accomplice, was in waiting to ascertain whether any one was suspected or recognized. While no murder was at this time committed, it would have been done if there had been any provocation.

Other stage robberies followed through the remainder of the year, involving the loss of life and property to a most alarming extent. The culminating deed was the murder of one Nicholas Ibalt, on the 13th of December 1863, who had brought one hundred and fifty dollars to Dempsey's rancho, where he was to purchase mules for his employers. His body was discovered by a hunter named Palmer, who shot a prairie-chicken, which fell among some willows on the banks of a stream near Dempsey's rancho. Palmer, pursuing his prey, to his surprise and horror stumbled over the body of Ibalt. It was brought to Nevada and identified. There was great excitement over the tidings, and the first vigilance committee of Montana was organized that very night, its first work being to search for the perpetrators of this crime; and at ten o'clock twenty-five men, who had subscribed to articles of agreement, left Nevada intent on the capture of the villains.

Suspicion had fallen on two herders employed by Dempsey, who had assisted Ibalt in starting, and who, by reason of their associates, did not enjoy a very good reputation. They lived in a little hut about two miles from the house occupied by Mr Dempsey and family. On visiting this hut of the herders, there were found Long John, or as his mother would say, John French, George Hilderman, Whiskey Bill, Texas Bob, George Ives, and Alexander Carter: a full nest of them.

All were arested and taken to Nevada City, Montana, where on the 19th of December a new tribunal was organized, composed of twelve representatives,

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all from Junction City and Nevada districts. The regularly appointed judges, Wilson and Byam, of the two districts were called upon by the miners to preside. According to miners' logic the men were made judges by the miners, the office they filled, if not the judges themselves, belonged to the miners, and they must obey the miners or abdicate. But the judges had no thought of taking exceptions to the action of the people.

Twelve from each district were selected to act as jurors, and the trial of George Ives began. Messrs Smith, Richie, Thurmond, Colonel Wood, and Mr Alexander Davis were Ives' lawyers, while Colonel Sanders and Charles S. Baggs conducted the prosecution. John French turned state-evidence, and the others, with the exception of Hilderman, were released, an action which the people ever after regretted. During the trial, which was conducted in the open air and continued two days, the sale of intoxicating drink was prohibited throughout the town, a wise and praiseworthy measure.

A two days' trial was a long one for the impatient miners, who had their own affairs to attend to; and while they were desirous everything should be done in a lawful manner, they were beginning to tire of disputatious formalities. Proceedings were narrowly watched by the officers of the Vigilance Committee, and during the second day they quietly informed the court that at three o'clock the trial must be concluded, and directed the court to instruct the counsel on either side that in their arguments before the jury they would be restricted to one hour each. After a half hour's consideration the jury reported twenty-three for hanging and one for acquittal.

Ives was a man of about twenty-five years of age, with blue eyes and light hair. His manner was sprightly and absolutely fearless. Now, however, confronted with the deeds of his past life, and death imminent, he begged for time. "How much time did

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you give the Dutchman?" inquired Colonel Sanders. By this time day had departed, and silver light had superseded golden. The prisoner had many friends among the attendants, and these were belligerent on hearing the verdict. Menacing forms and scowling visages cast weird, imperfect shadows on the disturbed ground, and pistols, guns, and knives gleamed in the moonlight. But all was of no avail.

In an unfinished house the scaffold was erected, a large box answering as platform. This building, which had only the frame standing, was within ten yards of where the trial had been conducted; and here the sentence was executed.

Hilderman's trial was soon over. He was an old man, evidently a tool of the band, without courage to divulge what he knew, equally in terror of his confederates and of the Vigilance Committee. He was considered somewhat imbecile, and his sentence was banishment from Montana.

John French having turned informant, and having given sufficient evidence to warrant the conviction of Ives, was set free. His testimony was corroborated by Hilderman. Ives protested, even on the scaffold, that he did not commit the crime of which he was accused, charging it on one Alexander Carter; but his assertions carried little weight. Even if true, there were yet unatoned sins enough at his door to warrant abode in airy space—so thought the Committee. Nevertheless the words of the departing Ives did not fall on heedless ears, that is to say, so far as the apprehension of further villainy was concerned. During their imprisonment they informed their captors that their organization at that time, 1864, numbered one hundred and thirty, who had killed and robbed over one hundred men, principally between Salt Lake City and the Montana mines.

Two lawyers, Smith and Thurmond, were driven from the territory by the exasperated people for attempting to clear the banditti when arrested. Dims-

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dale, writing of them, says: "They were employed as counsel of the road agents, and were banished. Thurmond brought an action at Salt Lake against Mr Fox, charging him with aiding in procuring his banishment. After some peculiar developments of justice in Utah he judiciously withdrew all proceedings, and gave a receipt in full of all past and future claims on the vigilants, in which instance he exhibited a wise discretion." It seemed to the people sufficient that the road agents should be permitted to accomplish their vile purpose unrestrained by law, without having the law interposed between them and justice by releasing them as fast as caught. That jurists should be obliged to admit the necessity, in criminal jurisprudence, which makes it the duty of the counsel to clear the guilty if it be possible, certainly augurs ill for the system. At all events it is a practice which border communities cannot afford to indulge in.

The Vigilance Committee was now strong enough to excite in Plummer's band fears for their lives. It was understood among them that pursuit was to be made for Ives' comrades; and brave indeed were the twenty-four citizens who undertook this perilous duty. Mr Dimsdale, writing of this expedition, says: "The volunteers formed a motley group;' but there were men enough among them of unquestioned courage, whom no difficulty could deter and no danger affright. They carried generally a pair of revolvers, a shot-gun, blankets, and some rope. Spirits were forbidden. On the 23d of December 1863 the party, on horse and mule back, went by way of Stinking Water to the Big Hole, and over the divide in the main range. The weather was very cold, and there was a large quantity of snow upon the ground. Fires could not be lighted when wanted at night, for fear of attracting attention, and the men were but ill prepared to face the chilling and stormy blast which swept over the hills and valleys crossed by them on this arduous journey. Few know the hardships they encountered."

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On Deer Lodge Creek, Erastus Yager, generally known as Red, was encountered. He was one of the band, but preserved his incognito so well that he threw the vigilants off their track, and had abundance of time to notify his comrades of their approach; so that when they reached Cottonwood their prey had escaped. For two days it snowed heavily. "The cold became fearful," says Mr Dimsdale, "and the sufferings of the party were intense. Some of the stock stampeded to the cañon out of the way of the storm. It was no small job to hunt up the runaways."

On reaching Rattlesnake they surrounded a rancho, where Plummer's men, Stinson and Ray, who were deputy-sheriffs, had Red under arrest, as they said, for horse-stealing, but would now release him on his promise to return to Bannock City. The vigilants pursued and captured him, and took him on to Dempsey's rancho, where a portion of their force awaited them. Here they made a second arrest of one Brown, secretary of the association. He was held to await Red's trial.

The men were taken to Lorraine's, where they arrived during the afternoon. At ten that night the trial commenced. Red turned informer, and fully described the whole organization of the road agents. He said that Plummer was chief of the band and Bunton was second in command; that the members were Cyrus Skinner, George Ives, Stevens Marshland, Dutch John, or John Wagner, Aleck Carter, Whiskey Bill, or Bill Graves, George Shears, Johnny Cooper, Buck Stinson, Ned Ray, Mexican Frank, Boone Helm, Club-foot George, or George Lane, Haze Lyons, Bill Hunter, George Lowry, Billy Page, Doc Howard, Jem Romaine, Billy Terwilliger, and Gad Moore. They had as a password 'Innocent,' wore mustache and chin whiskers, and a sailor's knot as a necktie.

The two men, Red and Brown, were taken to a tree on Lorraine's rancho and side by side were swung

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into eternity. Previous to his execution Red had implored that the rest of the band should be punished, which was readily promised, and the pledge kept. He also said, "You have treated me like a gentleman, and I know I am going to die; I am going to be hanged; it's pretty rough, but I merited this years ago." And with the rope around his neck his last words were, "Good-by, boys; God bless you! You are on a good undertaking."

The bodies were left suspended for their comrades to care for. On one was fastened the label "Red, Road Agent and Messenger;" on the other, "Brown, Corresponding Secretary."

Says a resident in relation to recent affairs in Montana:

"The aforesaid excitement began at the Stinking Water mines, but soon extended to this place, and men are going and coming all the time between the several mining localities, as well as between Deer Lodge, Big Hole, Hell Gate, Bitter Root Valley, and Gallatin. I hope not to be understood by the word excitement alone, that those men have been hanged by an excited and unruly mob. I will say to their credit, though myself a lover of law and order, that a more sober, quiet, and determined assemblage of citizens with the law in their own hands I never saw. At one time in Bannock, just after the killing of a worthy citizen and wounding of another, while trying to arrest the Spaniard Frank, well known around Camp Douglass, the crowd were so exasperated that they tore to the ground the house in which Frank was found and killed, carried it away from the other buildings, threw the Spaniard on top of it, and burned all together. The people had an especial dislike for the house, as it belonged to Henry Plummer, and was occupied by Buck Stinson. It was there the Spaniard secreted himself, and killed a good man and wounded another while he was being arrested. The Spaniard was killed on the 11th. George W. Coply, who was shot by the Spaniard, died on the 12th, and was followed to his grave by almost the entire population. Smith Ball, who was wounded at the same time, is out of danger."

These men Coply and Ball were members of the Vigilance Committee, and were shot by the man whose capture they were attempting. He is spoken of elsewhere as Joe Pizanthia, "the greaser," which was probably his name. It was a mob, not the Vigilance Committee, which in a frenzy executed its vengeance in this way.

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The next arrest was that of John Wagner, or Dutch John. He was brought into Bannock and imprisoned in an empty cabin until his fate should be determined. A vigilance committee was at once organized, and none too soon, as a communication was brought them that very night by four trustworthy citizens from the Virginia vigilants with an order for the arrest and execution of Plummer, Stinson, and Ray. These ruffians were then in Bannock, whither they had come preparatory to leaving the country. The committee knew there was no time to lose, and arrested the men, whom they found in different houses, apparently unconcerned about their fate. They were taken without delay to their place of execution, which was a cross-beam in an unfinished building. Their cries and curses broke the stillness of the night.

The great leader, Henry Plummer, begged hard for his life, cried like a child, asked to be chained down, offered to leave the country forever, and declared that he was too wicked to die. In his possession was found a paper describing the band, giving an account of their movements and their future plans. This document contained the names of eighty members of the foul fraternity whose extermination the Committee were earnestly at work to accomplish. Plummer was the most notorious of Montana desperadoes, and his organization the most powerful of early times.

The case of John Wagner was now considered by the Committee, and it was unanimously decided that he should be hanged as a highwayman and robber for his villainies of the past four years. A committee of one was appointed to notify him that he would be led to execution within an hour. At first his trepidation was extreme; he begged that they would punish him in any other way. "Cut off my legs and arms," he said, "and let me go; you know I could do nothing then." His native courage did not desert him ultimately, and the bravery he exhibited when on the gallows excited the sympathy of his executioners. He

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was led to the building where his comrades had been executed, and saw their stiffened bodies ready for burial. He gazed at them stolidly; a few hours later and he was laid beside them.

On the morning of the 14th of January 1864 the vigilants of Virginia were to be seen fully armed and stationed in all directions so as to prevent the egress from the place of any one; at the same time volunteers from the neighboring vicinity were gathering in the main streets. Boone Helm, Jack Gallagher, Frank Parish, Haze Lyons, and George Lane, or Club-foot George, whose arrests had been accomplished, were pinioned and brought in front of the Virginia Hotel and arranged in a row. They each confessed separately to crimes, but none of them gave any full confession. They were taken to a building just being erected on the corner of Wallace and Van Buren streets, where the main beam running across the building answered admirably the purpose of the Committee. Here the five were executed. Haze Lyons and Stinson, who was hanged at Bannock, had been tried in Virginia by a legal court in June 1863, on the charge of the murder of Dillingham, and were acquitted. Lyons confessed to this murder now.

At their arrest and execution their various characteristics were freely displayed. Jack Gallagher appeared to treat the matter as a joke at first, but when fully satisfied as to its reality, cursed vehemently. While standing below the gallows he used continually the most profane language. His last words were, "I hope that forked lightning will strike every one of you." Boone Helm, looking at the muscular contortions of Gallagher, said, "Kick away, old fellow; I'll be in hell with you in a minute. Every man for his principles. Hurrah for Jeff Davis! Let her rip!" Other incidents are recorded in regard to the last hours of all these men, but they are too revolting to repeat.

Boone Helm had emigrated from Missouri in the

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early part of 1850. He had committed a murder there, and had been pursued and brought before a court. After the third postponement of his trial he was set free, and coming to California is said to have killed a dozen men on these western shores. He was about forty years of age at the time of his execution. He seemed to be one of the most hardened of these desperadoes, without one redeeming quality. One of the first incidents mentioned of him in the territories is when, at Salt Lake City in the spring of 1858, he was in company with one Powell who had been trading with the Flatheads. Helm left The Dalles the autumn previous for Salt Lake in company with seven gamblers, carrying all the necessary implements of their profession, and a race-horse which was to beat anything in Utah. It was a short cut to that land where no stranglers are, and all of them reached it on the way except Helm. After four days' fight with natives a snow-storm set in, in which six of the villains perished, Helm shooting the last one, who had become snow-blind, for food. Soon after reaching Utah, Helm joined Johnson and Harrison's band of horse-thieves, made raids into California, and stole animals from the overland company and the military. At Lodi the quartermaster, recognizing and attempting to arrest him, received a ball in the head. Next we find Helm at Los Angeles, where he robbed a store-keeper; then we hear of him at the Salmon River mines shooting a man one Sunday afternoon for refusing to drink with him. He then escaped to Cariboo, where a life of violence soon made the country too hot to hold him. Between the Quesnelle and Antler Creek he assisted at the killing and robbing of three traders. Then making his way to the Bannock mines, he continued his evil course until the people in self-defence rose and hanged him.

On the 15th of January twenty-four men left Nevada intent on the arrest of the remainder of the band. The first day's march brought them to Clarke's

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rancho, where Steve Marshland was found in bed and captured. His feet were frozen and he was wounded, as the Committee already knew from the confessions of his associates. He was brought out of his hut and hanged immediately. On the next afternoon, at Deer Lodge Creek, another halt was made, and Bill Bunton was next arrested. He attempted resistance, but was unable to cope with his plucky captors. He was taken to a house in the neighborhood, where the vigilants passed the night and breakfasted. Another detachment arrested one Tex. As Bunton's guilt was unquestioned, he was speedily executed not two hundred and fifty feet from the house. Tex was banished from the country, though afterward testimony enough against him was obtained to have cost him his life.

Skinner and Alex Carter were next secured at Hell Gate. Carter was stupid from drink; when he recovered his senses and was told of the convictions and executions he said, "All right; not an innocent man hung yet." These men were taken to Higgins' store, where after an examination of three hours sentence of death was passed on them. Both of these men were noted criminals. George Ives had accused Carter of the murder of Ibalt. Carter denied that charge, but said he was accessory to the crime, and told where the mules were which belonged to Ibalt.

It was said of Carter that when he left the east it was with an unblemished reputation; that he had been trusted in money transactions, and deserved the confidence of his employers. Here in Montana all was different, and evil associates sealed his doom.

Skinner was of a very different stamp. He was a saloon-keeper in Idaho, of a blood-thirsty temperament, and had always had a bad reputation. He endeavored to run from his captors in order to be shot rather than hanged, but his object was easily thwarted.

A small detachment started off for Bitter Root

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Valley in pursuit of Bill Graves or Whiskey Bill. He was captured with but little difficulty. Placed on horseback, with a vigilant in front of him, he was taken under a tree, when he was given an opportunity to make confession, which he refused. The rope being adjusted, the vigilant suddenly put spurs to the horse, and as the animal plunged, Bill Graves was thrown from his seat, and quickly swung lifeless in the air.

Skinner and Carter were executed at Higgins' corral. The people had dug their graves, and at midnight witnessed the execution by the fitful light of their torches. Johnny Cooper, a lieutenant of the band, who had been wounded by Carter in a recent quarrel, unable to walk, was brought in a sleigh to his place of execution, and hanged on the same spot where his comrades had expiated their crimes.

Eight men were sent the same night in pursuit of Bob Zachary and George Shears. As one of the vigilants entered the house where Zachary was, he found him sitting up in bed, and throwing himself upon him, held him down until the others were able to pinion him securely. George Shears, although armed, made no resistance, and from the time of his arrest maintained the utmost indifference to his fate.

On the authority of Dimsdale, "Shears addressed his captors at the time of his execution in the following unique phraseology: 'Gentlemen, I am not used to this business, never having been hung before. Shall I jump off or slide off?' Being told to jump off, he said 'All right!' and leaped into the air with as much *sang-froid* as if bathing."

Zachary was also executed, within an hour after his arrest.

At the time of the execution in Virginia of Boone Helm and four others, another criminal, Bill Hunter, was a marked man, but he effected his escape for the time being. Now was his capture determined upon, and after severe exposure and many difficulties he was found in a cabin about twenty miles from the mouth

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of the Gallatin, where he had taken refuge from a heavy snow-storm. During the intervening time he had kept himself concealed during the day, seeking food at night. He was immediately executed, the 3d of February, on a lone tree near the cabin, in full view of travellers on the trail, so that his associates might find his body and take warning. This was the last execution of any of Plummer's band. The reign of terror was now over.

In February 1864 the Montana Vigilance Committee comprised over one thousand members, exercising sway over the country round the settlements of Virginia, Bannock, and Nevada City, and far beyond.

Almost every one of the several hundred embryo cities of the western coast, at some period of their early history, and many of them at many different times, have been cursed with a town rowdy, who, full of bravado and fiery drink, heavily armed with bowie-knife, six-shooter, and gun, usually with a few followers at his heels, stalked the streets, making day disagreeable and night hideous. He is not such as life-insurance agents seek as a risk; for once filled with the ambition for acquiring villainous distinction, his career is usually of short duration. He is the foolish miller of the mining towns, who flutters for a moment in the polluted light of self-extinguishing vice, then drops besotted into the flame.

Such a one was J. A. Slade, well known in Virginia City, Montana, in the spring of 1864; a man well conditioned so far as the world goes, for he had a good wife and a fine rancho on the Madison branch of the Missouri River. He had lived for many years in Clinton, Illinois, respected on account of his family and for his own good qualities. Subsequently his character changed; and when he came west it was as a fugitive from his native state, for he had killed a

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man in a quarrel, and was pursued by a sheriff for several hundred miles. In Virginia he gave little attention to business, for he was two thirds of his time in town, where he would drink and carouse with his companions, to the neglect of family and property. His boldness in crime intimidated the officers of the law, for he openly defied them. Once when he was known to be sober the Vigilance Committee sent him word that unless he better regarded the public peace, which should be preserved at all hazards, he must suffer the consequences of his evil ways. With his usual fool-hardihood he disregarded the warning and continued his practice of abusing law-abiding citizens, in several instances going so far as to even slap them in the face, and threaten in his expressive language "to bore them through" if they offered to oppose his playful wickedness.

On the 8th of March two houses kept by women were entered at night by Naylor Thompson, Harden, Slade, and others, who appropriated whatever they could make available, maliciously demolishing everything else. The proprietor of one of the places, called Moll Featherlegs, brought a suit before Judge Davis to recover damages. The suit was prosecuted by the best talent, and a jury of twelve miners formed, who feared not to act upon the testimony On the morning following these depredations, Slade and his companions were unusually combative. They were frenzied with liquor, and defied any one to prosecute them. Slade walked the streets with his comrades, freely using the most abusive language to any with whom he happened to come in contact. An attempt was made to arrest them, but seizing the warrants they destroyed them, and roamed and roared as usual until other warrants could be obtained. Threatening vengeance to the court, Slade called at Judge Davis' office, flung at him insulting epithets, and told him in a most insinuating way that some men's days were numbered. Then he walked away and entered a

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certain house. He had been there but a short time when it was surrounded by a company of three hundred men, members of the Vigilance Committee. They were all armed, and acted with preconcerted method, placing a guard about town, and fully preparing for resistance. This was about four o'clock in the afternoon; business generally was suspended, and though no excitement was exhibited the streets were filled with people in a hushed state of expectancy. Few knew who was to be arrested. A strong force then entered the building and took Slade prisoner with but little resistance. He was marched down the street to a ravine, where to his dismay he saw a newly erected gallows prepared for him. As death stared him in the face he was cowed; his defiance was now changed into piteous supplication; he nervously glanced about him only to behold the hills, streets, and house-tops covered with men, women, and children, who to witness his execution had thus come together. The prisoner begged that he might see his wife; this request was denied, and he was ordered to mount the scaffold. Ten minutes were then given him in which to prepare for death. He asked permission to speak with Judge Davis, lawyer Sanders, and others. Judge Davis responded, when the prisoner begged most beseechingly that he would entreat the people to believe in his innocence, and that instead of taking his life allow him to leave the country, and he would go anywhere they directed. Judge Davis told him that he was powerless to help him. Again he urged that he should be allowed time to see his beloved wife before he died. A message had been sent to her an hour previous, but of this fact the Committee was ignorant. The rope was adjusted, and feeling confident that his death was now certain, his face turned deadly pale and his trembling legs could scarcely support him. His cries for his wife now became more vehement; he must see her, he said, to arrange some business matters. Again as his

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arms were bound he cried, "For God Almighty's sake, let me see my beloved wife!" The crowd became greatly excited; the strongest emotion was exhibited, and cries of "Let him see his wife!" emanated from every quarter. A rush for the gallows was imminent, and a fight was only prevented by the sudden levelling of three hundred guns upon the turbulent mass that now tossed like an angry sea. A subdued quiet quickly followed, broken only by the continued appeals of the prisoner, which were now unavailing. His immediate execution was determined upon; for if they relented and allowed him extra time he might be rescued by his friends. With eyes unblinded the trap was sprung, and the man fell thirty inches, the toes just touching the ground. After hanging for half an hour the body was taken down and conveyed to the Virginia Hotel.

The crowd was slow to disperse; no complaints were uttered aloud except by Naylor Thompson, Slade's late companion in iniquity, whose threatenings of vengeance were silenced by the guard, who marched him to the gallows and would have executed him but for the remonstrance of the by-standers. He was liberated with the understanding that he should be banished from the country.

The excitement consequent upon his arrest and release had scarcely subsided when Mrs Slade drove up to the hotel, and alighting was conducted to the room where the body of her husband lay. It was scarcely half an hour since he had been carried from the gallows, and not until Mrs Slade entered the apartment did she receive knowledge of his death. Her grief seemed overpowered for the moment in thinking of the manner of his taking-off, and she prayed that God's vengeance would descend upon the murderers of her husband. She asked why some one did not shoot him instead of suffering him to die a felon's death. The sympathy of the community was with her, for she had always borne an excellent repu-

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tation among a large circle of acquaintances. At her request the body was temporarily interred in the village cemetery, and afterward removed to Illinois.

Dimsdale, writing of Captain Slade, says, "There are probably a thousand individuals in the west possessing a correct knowledge of the leading incidents of a career that terminated at the gallows, who still speak of Slade as a perfect gentleman, and who not only lament his death, but talk in the highest terms of his character, and pronounce his execution a murder. One way of accounting for this diversity of opinion regarding Slade is sufficiently obvious: Those who saw him in his natural state only, would pronounce him to be a kind husband, a most hospitable host, and a courteous gentleman. On the contrary, those who met him when maddened with liquor and surrounded by a gang of armed roughs would pronounce him a fiend incarnate." Again he says, "Captain Slade was the idol of his followers, the terror of his enemies and of all that were not within the charmed circle of his dependents. In him generosity and destructiveness, brutal lawlessness and courteous kindness, firm friendship and volcanic outbreaks of fury, were so mingled that he seemed like one born out of date. He should have lived in feudal times. In modern times he stands almost alone."

Time was when a stage arriving in safety was a matter for general congratulation. For a traveller to run this gauntlet of highwaymen without disturbance one would think almost an unusual occurrence. But the war of extermination was conducted with vigor.

James Brady, early in the summer of 1864 living at Nevada City, shot one Murphy, whom the physicians declared could not live. The people argued in this wise: If with malice prepense Brady points a weapon at Murphy and fires, is not Brady equally guilty whether the shot proves fatal or not? The law said no; the people said yes. Murder was in the heart, in

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the mind, in the eye and finger of Brady, and he is every whit a murderer as much with Murphy living as with Murphy dead. Certain absurdities are essential to law. And this is one of them: that if the ball strikes a rib and so is turned from its deadly errand, the crime is called by one name; if it strikes but a trifle higher or lower, the crime is called by another name. Yet the purpose was one, and the punishment, if the law was perfect in its action, would be one. The law, however, is obliged to judge intentions from results; and herein the law is deficient.

Brady was proprietor of a drinking-saloon. When he saw what he had done he threw away his weapon and fled, but was soon overtaken by officers of the Vigilance Committee and brought back to town. The next morning he was tried by the people and sentenced to die. Five thousand persons witnessed Brady's execution. He was marched to the gallows just outside the town by a guard of two hundred vigilants.

Jem Kelly, Brady's barkeeper and assistant in the shooting, was present at the trial and execution of his friend, and was himself adjudged deserving of fifty lashes on his bare back, which punishment was inflicted in an unfinished house near by. Afterward Kelly took to the road, and, as will be seen, pursued his evil career. In July a coach was robbed between Virginia and Salt Lake. A party of Montana vigilants set out in pursuit of the robbers. Learning that Kelly was implicated in the robbery, and that he had been indulging in other irregularities, they finally succeeded in catching him on Snake River, and after a trial he was hanged. His chief regret seemed to be in having to suffer two punishments, whipping and hanging.

At Salt Lake City in August 1864 one John Dolan was brought before the provost marshal for examination on a charge of having stolen some seven hundred dollars from James Redmond of Virginia, Montana.

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The prisoner had been arrested by John McGrath, an executive officer of the Montana Committee of Vigilance, then embracing nearly all of the better class of inhabitants of the territory.

As a matter of course, the man had been arrested without process of law; McGrath had no warrant for his custody. He was present at the examination, as was also Featherstone, deputy-sheriff of Madison County, Montana. After hearing the statements of both sides, the provost marshal decided that he had no jurisdiction in the matter. There had been nowhere filed any affidavit alleging offence. No warrant had issued from any legally constituted body. He simply found himself in charge of a man against whom no proceedings had been taken. If the prisoner had committed any offence, continued the judge, either in this or in an adjoining territory, the proper course would have been to have taken him before the civil authorities, who upon application would have issued a warrant for his arrest and transportation to the proper place for trial. Such proceedings having been neglected, the provost marshal decided that he had the authority neither to hold the man nor to deliver him to either of the applicants for his custody, which applicants were the civil authorities of Madison County and the Vigilance Committee of Montana, by their respective officers. It was therefore ordered that John Dolan be discharged from the custody of the provost guard.

This was done. The law acknowledged its impotency, and let loose one of a class who were preying upon the vitals of a large and widely scattered community. Not so the Vigilance Committee. There were more members of the association at that time in Salt Lake City than McGrath. Dolan had not proceeded far from the precincts of the law which had treated him so kindly, when he was seized and thrust into an outward-bound stage, which carried him back to the scenes of his irregularities and to the custody of those less trammelled by forms of justice.

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They arrived at Nevada on the 16th of September. His trial was a lengthy one, but his guilt was conclusively proved, so that his confession was only in confirmation of what was already known. He offered to make good to Redmond his loss if the Vigilance Committee would release him. Three hundred dollars had already been recovered. The sentence pronounced by the Committee was death by hanging, and was carried into effect at sundown of Saturday evening, the 17th of September, in the presence of thousands of people assembled from neighboring districts. Immediately after the execution of Dolan the remaining sum of four hundred dollars was collected and handed over to Redmond, so that by the death of the miscreant he should not be defrauded of the money. "An act of scrupulous honesty, probably never before paralleled in any citizens' court in the world," says Dimsdale.

Before the arrest of Dolan letters had been received informing the Committee that he was an associate of Kelly who was hanged at Snake River, and accessory to many crimes.

Henry Slater was a rough of reputation. In Utah and Nevada he was well known, too well known for his own comfort; so when diggings were discovered at Last Chance Gulch, on the edge of Prickly Pear Valley, near where now is the town of Helena, he was the first to cast in that camp his evil lot.

At Salt Lake he would have shot Colonel W. F. Sanders in the back had he not been prevented by by-standers. For this and many other outrages he would have died had he not saved his life by sudden flight from Virginia. John Keene was likewise a bad man. He was once barkeeper for Samuel Schwab at Virginia. He too came to Helena, not for the purpose of curbing his evil propensities, but that he might the more unrestrainedly indulge them. Between Slater and Keene a feud had long existed. Neither knew that the other was in town, when one day as Slater was sitting in front of a saloon with his

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hat drawn over his face Keene came along, looked at him sharply for a moment, and then without a word, drew his pistol and planted two balls in Slater's body, which ended forever that desperado's career. Keene was arrested, and in the absence of a jail, the sheriff confined him in his house. A crowd gathered. Prominent among its expressions of feeling was that of disgust. Taking the prisoner from the sheriff they marched him into a lumber-yard near by, appointed a jury, and proceeded to try him. The trial lasted far into the night, a strong guard meanwhile being kept round the prisoner. Finally he was found guilty and executed. Thus the camp was cleared of two of its most venomous inhabitants.

This was the first execution in Helena; the prisoner was hanged from a tree in Dry Gulch, which afterward served that purpose repeatedly for thieves and murderers in the northern part of the country.

John Keene was also known as Bob Black. In the Memphis *Appeal* of November 24, 1865, is an article giving an account of an unparalleled catalogue of crime, of which Bob Black was the hero. After "a career of desperation and crime, which if given in its details would cause the blood-thirsty tales of the yellow-covered trash to pale for their very puerility and tameness, he escaped from Memphis, and with a couple of accomplices began a system of wholesale murder and robbery on the Hernando road. The atrocity and boldness of these acts created the greatest excitement in Memphis." After leaving that city Kelly went to Minnesota under his own name. Before long he organized a band of twenty men and transferred his depredations to a wider sphere throughout the territories.

Writing from Montana one says:

"A few rods south of Helena, and just west of the present overland stage road where it crossed Dry Gulch, and directly in the gulch, there stands a venerable pine, whose massive lower branches of weird and fantastic growth extend twenty feet or more from the gnarled and moss-covered trunk. Years since it lost its foliage, and now it is gradually yielding to decay, and ere long

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a clod of vegetable mould will alone remain to mark the site of the famous hangman's tree. Could the old pine speak, what tales it could tell! But perhaps 'tis best that speech is not given, and that with the life of the old tree should pass the recollection of those early days when, forbearance having ceased to be a virtue, a short shrift and a hempen cord became necessary to rid the country of the desperadoes that infested it, and thus secure long needed protection to lives and property of honest citizens. Now law and order reign throughout the territory, and justice is attainable and administered through regular channels, and it is to be hoped that never again will circumstances call for or justify the formation of such an organization as was that of the Vigilance Committee."

During a long and successful career of twelve years' duration, Jacob Seachriest, sometimes called Jake Silvie, had practised brigandage. He counted his murders at the rate of one a year, that is to say twelve in all. Shortly after Keene's execution Seachriest was arrested at Diamond City upon divers charges, which, when his arrest was known at Helena, were greatly multiplied. The Helena vigilants then took the matter in charge, brought the prisoner to town, and confined him in the same cabin where Keene's last night was spent. Thence he was taken, after trial and condemnation, to the historic tree in Dry Gulch.

When Seachriest found denial of guilt was of no avail, he unburdened his mind by a full recital of atrocities committed. Previously, however, he had begged for a minister, and appearing repentant was baptized.

Three horse-thieves were hanged by the Committee of Vigilance of Montana on the 10th of June 1866 near Helena, and the Committee were then in pursuit of others. Throughout all the more thickly settled portions of the territory was posted the following notice:

"Beware! The Vigilance Committee is in session! Beware of the careless use of fire-arms!

"By order of the COMMITTEE OF VIGILANCE."

The 27th of September 1865 two horse-thieves named Jones and Collins, but called respectively Jack-

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son and Morgan, were executed by the Vigilance Committee. The occupation of lawyers and judges at this time and in these parts was extremely restricted. Two months later, that is to say the 28th of November, George Saunders was found hanging upon the old Dry Gulch tree with the following inscription pinned to his back:

"This man was hung for robbing A. Slane of $1180, and for some smaller stealings."

There too, upon the same Dry Gulch tree, perished in March 1866 James Daniels, tried, convicted, and imprisoned by the law for the murder of Andrew Gaitley, but pardoned by the governor. Says the *Montana Post* of the 10th of March of this execution:

"The judge, as in duty bound, forthwith ordered the arrest of the liberated criminal, and then returned to Helena with the acting marshal's order to his deputy, John Featherstone, to secure the runaway, who had fled, it was supposed, to that vicinity. There was no such intention as flight in the mind of Daniels. He went there to revenge himself on the witnesses, as he had threatened. At Duston Hot Spring Rancho, fifteen miles from Helena, a reliable man informed judges Munson and Strickland that Daniels had told him, when he passed in the coach, that he was going to Helena to attend to one or two jobs of men who had testified against him. A fit subject for mercy was Daniels, surely. This news arrived in town almost as soon as he did. He seemed to feel intuitively that something was brewing that boded no good for him, and he went to Featherstone, who was yet without orders, and asked his protection. He was permitted to stay at the office, and at night that officer accompanied him to the place where he was going to sleep. At Daniels' special request Featherstone went around town to see if he could gather any information of a suspicious kind as regarded any proposed attempt on the person of the culprit. No symptoms were discovered, and he returned to inform Daniels that he was safe. On arriving at the store he was apprised of his having been taken away by parties unknown to the owners of the store, and in the morning his lifeless body was found suspended from the murderers' tree in Dry Gulch."

Charles Jewett met an ancient enemy at Diamond City the 4th of February 1866.

"How are you getting along?" asked the ancient enemy.

"I will show you!" exclaimed Jewett, who thereupon drew and fired; but failing of its message, the

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bullet entered the breast of another whose name was Fisher, wounding him dangerously. The law examined Jewett, and the sheriff took him to Gallatin, where he lived, and placed over him a guard of two. Meanwhile as the facts became noised the people pondered. Jewett was not a lovely character. That he was not now a murderer was through no fault of his; that he would be one if left at large was certain. In common with all men he must die; following the course of the wicked he must die soon. Is it not better he should die quietly now, than after further uproar and a promiscuous scattering of bullets? As the result of these meditations and murmurings Charles Jewett was found hanging next day in full view of Gallatin City. Likewise not far distant was found suspended another unfortunate, of what name, by whom so placed, or for what wickedness, no one seemed to know.

The Walla Walla *Statesman,* commenting on affairs in Montana in April 1866, offers the following strong testimony in favor of the Montana Committee of Vigilance:

"A circular issued by the vigilants of Montana says that the organization is still in active existence, and that all offences against persons or property will be summarily punished. The practice of drawing deadly weapons is reprobated, and those who thus offend are warned that punishment will surely follow. As a rule vigilance committees are objectionable, but in the case of Montana it is doubtful whether honest men could have remained in the country had it not been for the Vigilance Committee. As it is, life and property are as well protected in Montana as in any country in the world, and all because the people have taken the law in their own hands."

Two miners at German Gulch, J. L. Goones and Hugh Dowd, lived together all winter, working by day and sleeping at night. All went well until one day in April 1866 the two men drank and disputed. Goones stabbed Dowd, and the people hanged Goones, though Dowd was not then dead.

Dry Gulch again; June 1866. 'Frenchy' he was called, but his right name was John Crouchet. He was thirty-five or thereabout and came from the Boisé country to these parts. Frenchy was a sort of limb

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of the law, which circumstance led him to the limb of the hangman's tree. Elevated to the post of night-watchman, he stole seven hundred dollars from a drunken man: a very mean thing for even an officer of the law to do. With four hundred dollars of it he made himself first interesting, then roaring. When he could drink no more, being under confinement, repentantly he returned three hundred of the dollars. Upon the back of what was Frenchy his epitaph was posted:

"No. 7. A robber, perjurer, and one who tried to swear away the lives of innocent men. An old offender caught at last."

Then began men's consciences to question them: Had they ever robbed or sworn wrongfully, and should they too some morning awake to find what remained of themselves hanging upon the classic tree?

Twenty of the best citizens of Argenti banded the 28th of December 1866 for protection against crime, unable longer to endure the glorious uncertainty of the law.

Fat cattle were Jim Walter's fancy; though Jim Walter was his work-day name only, which he employed as one puts on a suit of soiled clothes for dirty work. Arrayed in respectability, and James P. Staley was his name. But whatever his name, he had a fondness for fat cattle. He was not particular where they were fatted, on the Missouri or in the valley of the Gallatin, but the more convenient they were to his unpretentious slaughter-house on Willow Creek the better. There was a good market for the meat in that vicinity, too. This was at Helena, and early in January 1867. Presently the stock-raisers began to miss their finest cattle, and Staley was charged with having stolen them. He concluded, all things being weighed, that it was best for him to leave that place. Opposed to walking, he took a horse that was not his and rode away. A body of cattle-raisers was soon after him. Staley was forced to quit the road and plunge into a thicket. Night coming on, the pursuers

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built a large fire, when their game was discovered lying flat upon his breast pointing his pistol at them. To an order to come out he replied by discharging his weapon. The party then fired simultaneously, and the fellow was riddled with bullets.

From a tripod formed of three fence-rails twelve feet in length the body of Charles Wilson was found dangling one morning in September 1867. It was by the stone-quarry near Virginia. The body was fully dressed, the hat upon the head, the pockets untouched, and on the ground lay a blanket. The feet just touched the grass, and the single word "Vigilants" labelled the back. Wilson had been a companion of Slade's, an employé of the express company, a member of militia company D, and helper on the overland railroad. Last of all, his occupation was that of road agent. It appears that a secret association had recently been organized, numbering thirty-five active agents, with over a hundred supernumeraries, who stood ready as occasion required to assist, shield, and comfort members of the brotherhood. The purposes of the organization were robbery, and when deemed expedient, incendiarism and murder. The thirty-five were to do the work; the one hundred to assist escape, or if any were captured to act as jurors, witnesses, and bondsmen. The overland treasure shipments were to have their especial attention; likewise the burglary of certain stores in Virginia. Several prominent citizens, who objected to spend their lives in planting for others to reap, were also marked for murder. All this and more was imparted by one who had recently been sworn in as member; but what he told the Vigilance Committee they already knew. Thus after a respite in this quarter began anew the work of extermination. One Douglass, a cattle-thief, escaped from the Helena prison, and falling into his old ways again was caught and executed by thief-hunters.

For some time past the Virginia Committee had remained passive, leaving to law its opportunity.

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During their former exercise of power they had succeeded in intimidating crime, and a period of quiet followed. But the discovery of the existence of a new and powerful criminal organization awoke them to the necessity of renewed action, and the execution of Wilson was the beginning of a new *régime*. The revival of activities on the part of the Vigilance Committee called forth much discussion. There was less partisan spirit manifest now than formerly. Now almost all the Montana journals without regard to politics, unite in awarding the highest praise to the vigilance organization. Says the Helena *Gazette*, the leading democratic paper in the territory, in October 1867:

"With many of our good citizens, we have deprecated the existence of such an irresponsible body in Montana as a vigilance committee, but chiefly deprecated its, at times, necessity. That this organization brought order out of the most bloody anarchy in Montana, at a time when law was powerless, its executive offices being in the hands of villains, no one at this day doubts. That many cold-blooded murderers and daring robbers have gone unwhipped of justice since they ceased to take cognizance of such matters is also true, and has been lamented by all good citizens who wished to see the law predominant."

A. K. McClure, writing from Montana in the autumn of 1867 to the New York *Tribune*, says of the vigilance organization:

"Of the brave men who inaugurated and openly sustained this movement, no one can justly be awarded exclusive praise; but there is one who figures as conspicuously in the history of the vigilants as did Plummer in the reign of terror. Some twelve years ago I was accustomed to meet on the streets of Chambersburg, Pa., a young man named John X. Beidler. His frugal wants were supplied by the manufacture of brooms, and finally he mixed the best of cocktails and juleps at a neighboring summer resort. He was as amiable and unoffending a lad as the community could furnish, and his jolly, genial humor made him a favorite with all who knew him. Although he had attained his majority, he was scarcely five feet six inches in height, and was far below the average of men in physical powers. He finally wandered west in search of fortune, and soon after the advent of Plummer came X., the only name by which he is universally known in Montana. Thus the bane and the antidote were close upon each other. Strong in his inherent love of honesty, a stranger to fear, not powerful, but quick as thought in his actions, and firm in his purpose as the eternal mountains around him, he naturally entered promptly and earnestly into the effort to restore order and safety to society.

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That little was expected of him when he first cast his lot with the stern reformers is not surprising, but his tireless perseverance, unfaltering courage, and singular skill in thwarting the plans of the common enemy, soon made him the chief pillar of the organization and the unspeakable terror of every desperado. This diminutive man, without family or property to defend, has himself arrested scores of the most powerful villains, and has executed, in open day, an equal number under the direction of the wonderful fountain of retribution that was unseen but was surging around the hasty scaffold. So expert is he with his faithful pistol that the most sciencedd of rogues have repeatedly attempted in vain to get the drop on him; quick as a flash his pistol is drawn, cocked while drawing it, and presented to the doomed man with the stern demand, 'Hands up, sir!' and the work is done. At one time, without aid, he arrested six of the most desperate thieves in a body, all well armed, and marched them before him to prison. 'Hands up, gents!' was the first intimation they had from him that he had business with them, and submission was the only course of safety. Had any one of them attempted to reach toward his belt he would have fallen that moment. There were citizens close by, and how many of them, if any, were sworn to protect and ready to aid Beidler, he knew, while the prisoners did not. This indefinite, unseen, immeasurable force seems to have ever stricken the most courageous thieves and murderers nerveless, when its sudden and fatal grasp was thrown around them. They would fight scores of men for their lives in any ordinary attempt to arrest them, but they were invariably weakened when the citizen confronted them in the name of public safety. No formalities were known. No process was read bearing the high seal of the courts. When or where the dread summons of the great unseen tribunal would come none could conjecture. The sleeping companion of the desperado in some distant rancho would probably drink and breakfast with him, and then paralyze him by the notice, 'You're wanted—business at Virginia!' In no instance did any of the many lawless characters arrested by the vigilants ever fire a pistol in their own defence, even when they knew that death was inevitable. In most cases the opportunity was slight, but under all ordinary circumstances the narrowest chances would be taken to effect escape. From 'X' no criminal ever got away. To have attempted it would have been but to hasten death. So much did the desperadoes respect as well as fear him, that most of them, when condemned to die by his hand, committed their last requests to him, and with him they have been sacred. Order and public safety have been restored, but he still has employment in his favorite line. He continues to act as the chief detective of the territory. He comes and goes, and none but himself knows his errand. 'What's up, X?' is a query that is generally answered, 'After tracks;' and 'Don't know,' is his usual reply to all questions as to his route or time of departure. He has traversed alone every highway and settlement of Montana, prospected many of the unexplored regions, and is ever ready, without escort or aid, to pursue a criminal wherever he may seek refuge. His career has indeed been most remarkable, and his escape, unharmed, through his innumerable conflicts with the worst men seems almost miraculous. He has recently been appointed collector of customs for the port of Helena, but while there is a thief, a defaulter, a murderer, or a savage to disturb the

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peace of Montana, he will remain the most efficient messenger of justice known in the mountain gold regions. He has lost none of his genial, kindly nature by his long service as the bearer of relentless retribution upon the lawless, and wherever he goes he is welcomed by every lover of order and government. When he is upon the war-path, 'it's no for neathing the gled whistles,' and crime has no escape but in timely retreat. Fully three thousand perfectly organized men are at his back. They have their companies, officers, minute-men, and messengers in every settlement, and he can rally in an instant scores or hundreds of true men to his side."

In connection with this fresh display of popular power there sprang up a new and strange organization, called by some anti-vigilance, though I should term it rather an opposition vigilance committee, as it seemed to oppose certain methods of procedure in the main organization, and not the principles themselves. They objected not to popular trials and executions, but to dark doings and secret executions by night. The *Montana Post*, always a strong upholder of vigilance, vouches for the honesty and respectability of the reformatory association, and expresses the opinion that the members thereof will resort to extreme measures for the fulfilment of their purposes. Here is one of their warning cries; to say the least, it opens a new phase in the annals of vigilance:

"We now, as a sworn band of law-abiding citizens, do hereby solemnly swear that the first man that is hanged by the vigilants of this place, we will retaliate five for one unless it be done in broad daylight, so that all may know what it is for. We are all well satisfied that in times past you did do some glorious work, but the time has come when law should be enforced. Old fellow-members, the time is not like it was. We had good men with us; but now there is a great change. There is not a thief comes to this country but what 'rings' himself into the present Committee. We know you all. You must not think you can do as you please. We are American citizens, and you shall not drive and hang whom you please.

"FIVE FOR ONE."

It is seldom we see a citizen ironed by the authorities for participation in a popular movement. Jack Varley worked for a Mr Guezalla at Deep Gulch. The master had made money enough and had concluded to leave the country; the man thought he would like that money, and so determined to rob

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Mr Guezalla on the road, which he did, and was pursued and arrested for it by the citizens of Deep Gulch and Beartown. After the people had accomplished his work for him, the Beartown sheriff came forward and demanded the person of Varley, but was told that while he was at large he might have taken him had he been so disposed, but now all his countrymen demanded of him was that he should stand aside. The sheriff withdrew, nettled; and encountering one of the vigilants, McGee, alone and unprotected, under some frivolous pretext he arrested and ironed him, telling him meanwhile that if he would use his influence to have Varley delivered to the law he, McGee, should be released. McGee indignantly refused. Finally the people tried and executed Varley, and McGee was released on bail.

'Necktie sociable,' 'strangulation jig,' and many such euphonious names the people of Montana had for hanging.

An incident is given of a young man, son of a respectable citizen, who in March 1868 was travelling from Bannock to Salt Lake, and who, overtaking a man with several horses going in the same direction, naturally joined him. It appears that the stranger with the animals was a horse-thief of whom the Montana Vigilance Committee were then in pursuit. They had not travelled far together when they were overtaken, arrested, tried, condemned, and hanged together.

One day in August 1868 as William Hynson was standing in the street near the post-office in Benton he was accosted by one of the citizens of the place:

"There is a man to be hanged, Bill, and we want you to help us."

"What's his name? what is he to be hanged for?" asked Hynson.

"Never mind that, I have no time to talk; get a good strong rope and help me rig it, while the Committee bring the fellow out."

Hynson obeyed. As long as he was not chief actor

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in the tragedy it was a pleasure rather than otherwise to be of service to the noble men who were exercising so healthful an influence upon society. The rope was brought. Soon a rude scaffold was ready, in the erection of which Hynson assisted with alacrity.

"Can't you tell me who the man is?" he asked again."

"No, no; fasten that end of the rope strong. You will know all about it presently."

Coming up by twos and threes, a crowd soon gathered, when Hynson was ordered to take his place beneath the gallows which he had helped to erect, for he was the man for whom it was erected. He had stolen a rifle from Mr Clagett; he had murdered a Chinawoman, valued by her owners at six hundred dollars; he had knocked down and robbed a freighter; he was a bad man, and he must die. Hynson did not like it at all; but forced to comply, he took his position and was soon dangling.

Near the eastern boundary of Montana in September 1868 Harvey Wentworth, Andy Wineniller, and William Thomas were arrested for horse-stealing. Those who knew the men could scarcely believe them guilty; nevertheless the first two were hanged. Thomas escaped.

Some time during the winter of 1869–70 J. M. Wood, who had been tried and condemned for the murder of Thomas J. Duffey and pardoned by the governor, was hanged by the people of Lewiston. The jail at Diamond City was forced the night of March 12, 1870, and W. C. Patrick, confined for the murder of John Benser, was taken thence by a committee of citizens and hanged.

I will now give the proceedings of a popular tribunal which for coolness and precision of judgment can but recommend itself to all lovers of justice. Its occurrence was during the latter part of April 1870. Even at this comparatively late day the people of

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Montana seemed to regard this method of administering justice as the natural and proper way, being more sure, speedy, and economical than courts of law, and in the main dealing more even-handed justice. The place was Helena, never without a thoroughly organized and efficient committee of vigilance, and which by this time had had much experience.

George Lenhart, an old man, useful, respectable, and kind-hearted, was found by two travellers near Helena, on the morning of the 28th of April, lying insensible in the road, covered with blood. The sheriff was notified, and medical aid provided, though slight hopes were entertained of his recovery. Regaining consciousness, the old man stated that as he was riding homeward the night previous he was overtaken by two horsemen, one of whom shot him in the thigh with a pistol, and when he had fallen from his horse beat him on the head to insensibility. Then when they thought him dead the two men rifled his pockets of two hundred and twenty-five dollars; and there he had lain all night. Then he described the appearance of the men and the horses they rode. Soon it was ascertained at the livery-stable that two men had engaged horses shortly before the attack, which they had mounted and ridden in that direction. After due search two persons corresponding to the description given by Lenhart and by the stable-keeper were arrested and lodged in jail. Their names were Joseph Wilson and A. L. Compton. The men and the horses were then taken to the house where Lenhart now lay. One of the men and one of the horses he recognized; the others he could not positively identify.

On the evening of the 29th the citizens held a meeting to talk the matter over. There was little doubt by this time as to the guilt of the prisoners. A good man long and favorably known among them had been villainously assaulted. The law was tedious, expensive, and uncertain. Lenhart might recover, and court proceedings thereby become obtuse. Three

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thousand or four thousand dollars could easily be spent in the trial of these men. If cleared, any one of them might be their next victim; if found guilty, and Lenhart should recover, there was little probability they would be condemned to death, in which event three or four thousand dollars more might be spent feeding, clothing, lodging, and watching them during confinement. The men were not worth it. They were not citizens of that place accused of crime, but they were birds of prey, vultures, flying hither and thither, circling round and round, hungrily watching an opportunity to dart upon the defenceless. That they were robbers and murderers was certain, or at all events could easily be made certain. It was of no consequence at all to minds tempered like theirs whether Lenhart lived or died; these men were murderers, and very brutal ones, whether he recovered or not. It was well enough for the law with its mountains of precedents, its profounder insight into this and that, to distinguish between killing a man very dead or only killing him a little, if it wished. For them, law and learning to the contrary notwithstanding, it was enough to know that a citizen had been shot, beaten senseless, and robbed; to know that the persons doing it were worthy of death, were not worthy of long and expensive talk about it. Thus argued the meeting. And the more these coarse practical brains revolved the matter, the more sure of right their owners were.

They would sleep on it. The meeting adjourned to ten o'clock next day. An hour before the time a thousand men had gathered at the court-house, which was the place appointed. The assembly was called to order and Harvey English appointed to preside. Mr English stated the purpose of the meeting in a somewhat lengthy speech, as every man knew what he was there for. He rehearsed the circumstances of the old man's treatment, and stated that the perpetrators of the deed, if found, should be punished.

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Suspicion pointed at that moment to two men lying in the jail, and in order to avoid the law's delay and uncertainty, he proposed that the citizens should relieve the law which they had made, and the officers of the law whom they had appointed, from the burden and responsibility of trying these men, and that they should be brought before a bar of the whole people, that they should be impartially tried, and if found guilty, executed.

Thereupon the speaker took his seat, which consisted of a chair on the landing of the court-house steps. There was not the slightest excitement visible anywhere; all was as quiet and orderly as at a camp-meeting. A well known merchant of the town lifting his hat then moved that a committee or jury of twenty citizens be appointed to obtain evidence, to listen to accusation and defence, and declare to the assembled people the guilt or innocence of the persons charged with the crime. The motion passed; the committee were chosen, and retiring to a room began at once their task. They appointed a marshal, Joseph Woolman, and a police force to wait upon instructions. Two witnesses, J. Lowry and W. B. Morris, who accompanied the prisoners to the place where lay Lenhart for recognition, were examined; then the stable-man, and after him many others.

Up to this time the two men Wilson and Compton lay in jail unmolested. Now the committee having need of them ordered their officers to produce them one at a time. The marshal detailed a *posse* of men, and waiting upon the sheriff made known to him the will of the committee. The sheriff refused obedience. Meanwhile Wilson sent word to the committee, saying that if they desired it he would make a statement and throw himself on their mercy. The marshal increased his *posse* and demanded from the sheriff the prisoners. Again he was refused; whereupon the sheriff and his deputies were seized and search made for the keys. They were not on the person of any,

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but were soon found in the jailer's room. The officers of the law were then locked up in a room by themselves, and a guard placed over them. The prison door was opened, a double line of citizens formed from the jail door to the committee room, and Wilson was brought forth. He expressed his readiness to make a full confession; but as he stated he should implicate others, the committee ordered all spectators from the room. Wilson then told everything, entering into particulars of that and other crimes not necessary here to repeat. Next Compton was brought before the committee; and in short the guilt of the two men was clearly proved. They confessed to everything, disclosed the stolen money, and requested a priest. There was no need of further deliberation; the committee presented themselves before the assembly, and one of their number, Mr Lawrence, read the following verdict: "The committee to whom was referred the charge against Wilson and Compton report that they find, from the evidence and the confessions of the parties, that on the night of the 27th of April 1870, in the county of Lewis and Clarke, A. L. Compton and Joseph Wilson shot, with intent to kill, George Lenhart, and then and there robbed him of one hundred and ninety-three dollars in currency and about two ounces in gold-dust."

At this juncture the district judge appeared before the assembly and requested to be heard. Permission being granted, he entered a strong protest against popular interference with the civil authorities. In this instance particularly, he said, these unlawful proceedings on the part of the people were uncalled for and inexcusable. There might be conditions under which popular administration of justice would seem warrantable, but such conditions did not here exist. They had courts well appointed and competent; their prison was secure. Such conduct was a reflection not only on the integrity of their officers, but on their willingness to abide lawful government. The judge

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was listened to patiently and respectfully. He was a good man enough, but they had heard similar arguments fifty times before. Promises were fair; performance slack. There was something radically wrong in the system that failed so signally to punish crime, and to protect life and property. Statutes, constitutions, and courts were doubtless all very well, but they could not sit calmly under the shadow of such paraphernalia and see good men shot down and robbed upon the highway day after day and year after year. All they proposed to do was the law's duty. Experience had taught them if they wanted a thing done, to do it themselves; if not, trust it to the law.

Finally the vote was put by the chairman: "What shall be done with the prisoners?" "Hang them!" was the response. Again and more carefully the question was put: "Is it your decree that the prisoners, Joseph Wilson and A. L. Compton, shall be taken to Pine Tree, in Dry Gulch, and there hanged by the neck until they are dead?" "It is; that's the verdict!" came from almost every person there present.

It was now half-past two. A motion prevailed that the prisoners be given until four o'clock to prepare for death, at which hour their execution should take place. Throughout the entire proceedings there was manifest the utmost decorum, and even solemnity, among the crowd, which had now swelled to three thousand souls. At no time during the day was there any loud talking, boisterous demonstration, or bravado; even the coercion of the sheriff and his deputies was unattended by violence. Their duty compelled them to resist, yet they knew resistance to be useless.

At the hour appointed the famous gulch presented the appearance of a vast amphitheatre. The sides and hills adjacent were dense with people on foot, on horseback, and in carriages. The town was deserted. At half-past four the two men were taken from the room in which they had been confined and placed in a wagon.

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Father Immode sat beside Compton, and the Reverend S. G. Lathrop accompanied Wilson. The doomed were calm, and apparently intent on gaining if possible the future salvation promised. There was that about the whole proceeding impressive, awe-inspiring. A stranger fresh from the fossilized formalities of staider parts could scarcely believe this to be what was so hooted as mobocracy, lynch law, the work of the infuriate rabble. Nor was it. It was the deliberate expression of sober popular will, as deliberate and sober as ever citizens displayed in the performance of their duty. Under the shadow of the fatal tree the wagon halted. The noose was adjusted; the ropes swung; prayer was said; the horses started, and all was quickly over.

Two hundred of the men of Bozeman, Montana, about eight o'clock on the evening of the 1st of February 1873 proceeded in a body to the county jail and demanded from the sheriff two prisoners called Steamboat Bill, that is to say John W. St Clair, and Triplett, the former having wantonly shot to death a Chinawoman, and the latter having stabbed to death a saloon-keeper. The sheriff refused. The people proceeded to break open the jail door, and the sheriff hurried off to Fort Ellis for troops to slaughter the citizens slaughtering the imprisoned slaughterers. Killing was king at Bozeman. The commandant gave the sheriff a squad of soldiers, but luckily for the soldiers they did not arrive in time to be killed by the people, as the hanging was all over before they came up. The swinging carcasses of his whilom companions were pointed to one Scotty, and he was told to leave. He left. Triplett was an old fisherman who brought trout from the Yellowstone. Entering a saloon one day and taking a drink he walked off without paying for it; the keeper followed him, whereupon the ancient fisherman turned and stabbed him.

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The *Montana Mountain* of the 17th of June 1875 is responsible for the following:

"The spirit of the early days has not yet died out in Montana, but once in a while manifests its liveliness even in these slow-going times. The other day in the lively little mining-camp yclept Trapper City the report of several pistol-shots fired in rapid succession spread consternation among the peaceful inhabitants of that quiet burg; and the rumor that the village had attained to the dignity and honor of a 'man for breakfast' soon attracted the major portion of its denizens to the place whence the sounds proceeded. The excitement was raised to fever-heat when on entering the house a man was discovered lying on the floor weltering in a pool of blood which had trickled from his right ear, and breathing heavily, as though in mortal agony; and in one corner of the room stood a man with a brace of navy six-shooters in his hands, and glaring upon the crowd like a hound at bay. Of course the situation was comprehended in a moment; a horrible murder had been committed; the bleeding victim lay in the throes of death upon the cabin floor, and his murderer stood in the corner prepared to deal death and destruction upon the assembled crowd. A cry for vengeance arose from a score of throats, and some essayed a movement upon the man in the corner, when the 'navies,' brought to a horizontal position upon a level with their eyes, warned them that such a proceeding would be attended with some danger, and they prudently retired. After a little, one of the crowd was induced to see if anything could be done for the dying man, and approached him for that purpose, when the man in the corner yelled out, 'Get out of that, or I'll blow the top of your damned head off! That's my meat!' and as he spoke he emphasized his remark with a shot from the six-shooters. The humanitarian stood not upon the order of his going but lit out with remarkable celerity, and as he made rapid transit through the street he was saluted by the confederates of the murderer with a volley of pistol-shots which made him think a battle of artillery had been turned loose upon him, and lent wings to his flying feet as he departed from such uncongenial scenes. By this time a battery of pistols was unmasked in the vicinity of the murder, and he saw unless he got out of that he would be a riddled member of the community, and, with levelled pistols, made a dash for life and liberty. The crowd gave way before the deadly-looking weapons, but a dozen pistols were discharged at him as he rushed out of the house and succeeded in gaining the cover of a friendly stump, where he turned and discharged his weapons with such rapidity that the crowd scattered with an alacrity that denoted a positive dislike to a salutation of that character.

"During the excitement consequent upon these proceedings the fact that a man was wounded, and perhaps dying, had been entirely forgotten, but now some of the terrified citizens turned their attention to his necessities. Messengers were despatched for surgical assistance, and some went into the house to render aid to the bleeding victim of ruthless murder. He was still insensible, but yet breathing, and the boldest of the men turned to look for the wound. It could not be found! The bullet must have entered the drum of the ear and lodged in the head, and nothing could be done until the arrival

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of a surgeon. A committee were detailed to capture the murderer, and were about to start on their mission when a shout of horse-laughter from the crowd at the door apprised the excited citizens that there was something wrong. And there was. A closer examination disclosed the fact that a huge 'sell' had been perpetrated; that the wounded man was dead-drunk; that the artillery had all been loaded with blank cartridges, and that somebody was minus a bottle of brilliant carmine writing fluid, which had been adroitly used in representation of the clotted gore. The humanitarian referred to returned to town next day, somewhat the worse for wear and just a little hot over the situation; but he can find plenty of men who will wager a silver mine that he can run ten miles an hour for ten consecutive hours under similar circumstances. And now, if you want to see a genuine expression of intense disgust, ask a Trapper City man if the Vigilance Committee have caught that murderer."

Of the Cheyenne Vigilance Committee one hundred went to Dale City in January 1868 and captured and hanged three men, Keith, Shorty, and Jack Hayes. On the night of the 20th of March the Cheyenne Committee did some hanging at home; they executed Charles Martin and John Morgan. The former was one of a band of horse-thieves of which McLaughlin was captain.

The Cheyenne press approves of a new form of notification to leave introduced into the practice of vigilance by the Committee of that place. Says the *Star* of the 22d of January 1868:

"We think this public notification the best method: No person will be notified to leave this territory except through a public newspaper of this place, and if said notified parties will not leave within twenty-four hours, the Committee will no longer be responsible for their safety. George Brown, Neil Murphy, Cocke, at New Ideas, Jack Bristol, Thomas Campbell, Eugene Debonville, Frank St Clair, Al Cunningham, Slippery Bill, and Dave Mullins: The above parties will leave this territory in twenty-four hours.

"By order of the VIGILANCE COMMITTEE."

Often the danger attending border life is made the plaything of ruffians, who for the pleasure of stealing a horse or indulging in a drunken frolic will risk capture and death where the chances of escape are almost closed against them.

I have here one incident of this character, which happened in October 1877 in Wyoming, and another about the same time in Arizona: William Rowe and

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a comrade named Jones, known in Wyoming for several years as desperate characters, stole some animals from B. F. Hatch, a freighter, and escaped with them. The thieves, though shrewd, were easily followed, and in recovery of the animals Jones was shot dead and Rowe captured. The Arizona tragedy was simply the result of a reckless frolic. Two noted desperadoes, Tullos and Vaughn, entered Prescott and began amusing themselves by shooting dogs and presenting their loaded revolvers at the breasts of people, threatening to let daylight through them if they opened their mouths. Then mounting horses they rode down through Montezuma street at full gallop, yelling and shooting like demons. As a matter of course, the officers and citizens were obliged to put an end to such proceedings, and in doing so one of the ruffians was shot to death and the other nearly killed.

A young fellow named Ryan, living from boyhood in Cheyenne, and one Babcock were brought into town the 8th of November 1877 for robbing the southbound Black Hills coach almost under the very walls of Fort Laramie. Ryan had been twice in the penitentiary before, but this time he was placed there for seventeen years and Babcock for fifteen. Two Dick Turpins, Blackburn and Wall, were brought in from numerous alleged stage robberies about this time, including one where the sum of fifteen thousand dollars was secured from the treasure-box. One of them was badly wounded in his capture.

At Central City, two and a half miles from Deadwood, in the Black Hills, was located the Hidden Treasure mine. During the summer of 1877 there was trouble as to the ownership of the mine, which resulted in homicide and litigation. In November forty men were at work on one of the shafts, and failing to receive their pay they took possession of the mine. Arming themselves with Sharp rifles and revolvers, and laying in a plentiful supply of ammunition and provisions, they were prepared for a siege. The

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sheriff with his *posse* on their arrival found the entrance to the tunnels and shafts barricaded, with rifle-barrels gleaming through the apertures. The mine was worked at the time by a contractor, and although the yield was good, he neglected to pay the men, who, as they claimed, took "peaceable possession of said Keats' mine in order to get our pay, which has so long been due, and of which we and our families are sadly in want."

As Sanford S. C. Dugan, a native of Pennsylvania, twenty-three years of age, was being conveyed from the Larimer-street prison in Denver, about the 1st of December 1868, to the city jail for greater safety, the wagon was intercepted by one hundred citizens and driven to a cotton-wood tree on Cherry street, where a rope was arranged round his neck and over a limb. The poor wretch begged piteously for his life, saying he had never robbed, and had killed but one man, and that in self-defence; but the proofs of guilt were so satisfying to his judges that the fatal order was given to drive on, whereat wagon and soul each wended its way, leaving the body dangling. Fifty of the most quiet and respectable citizens of Denver but a few day before this, namely on the 23d of November, took L. H. Musgrove from the jail and hanged him. The man had been in the habit of disguising himself as an Indian and committing depredations in various parts. As he was brought from prison a crowd gathered, to whom the vote was put if he should be hanged, and a unanimous 'ay' followed. He was placed in a wagon and driven under Cherry Creek bridge, where he was allowed time to write some letters, which he did, smoking a cigarette in the most nonchalant manner. When the wagon started he crouched low and made a spring in order to secure a better fall.

Two thousand citizens on one occasion, the 12th of June 1880, appeared upon the streets of Leadville to quell a miners' mob; and they quelled it.

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Kid, a nice young man without, but ragged inwardly, having a fancy for drugging his victims before robbing them, with a hempen cravat adorning his neck and gentle zephyrs playing fantastically with his raven locks, as the Cheyenne *Leader* expresses it, graced a telegraph pole of Laramie in August 1868. This warning sufficed for three months only. In November H. C. Thomas drugged a man at Bryan and robbed him of two hundred and seventy dollars. At Laramie he shortly after attempted the same exploit, when he was arrested and committed to the calaboose. Five cocked pistols pointed at the keeper's head by five masked men a night or two after produced the key, which, after taking Thomas away and hanging him, they were careful to return to the jailer.

Three hundred men or thereabout comprised the vigilance organization of Laramie in the winter of 1868–9. It was no sinecure, membership of this corps. In their encounters with the desperadoes of the mountains bullets often flew freely, and death was the reward of bravery. Three men were hanged by them one day in October 1868, and before the bodies were removed a fourth was added to the ghastly row. Asa Moore, Con Weiger, and Edward Barnard were the names of the three disgraces which were raised into immortality by reason of their sins. Among others granted permission to leave that place with their feet still touching earth was Steve Young, Long Steve he was called for short; but disregarding the kindly warning he attended the elevation of the immortals blusteringly. "No damned stranglers shall drive me from town!" he said. Again he was affectionately warned to be quiet, and to depart in peace, if he didn't want the top of his head blown off. Stephen defied the vigilants the second time, and even the third; whereupon he was elevated thence by the stranglers whom he had so delighted to dishonor.

The Laramie organization in its operations extended as far as the western end of the Union Pacific Railroad.

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In October 1868 they hanged five men at Gilmer, then a recent railroad town, among whom were David Mullen and a notorious villain named Morris. At Bear River a riot occurred among the graders the 20th of November 1868, growing out of the hanging of three men nine days previous. It was a war between crime, its supporters, and honesty-loving citizens. The latter armed, and the mob after burning the jail came upon them, when they fired, killing six and wounding twenty. Powers, O'Neil, and Reed were the three men hanged, and their crime was garroting and midnight robbery. O'Neil's brother was working on the grade, and he succeeded in rousing the rough element to retaliation. Patsey Marley was the leader of the rioters, and besides burning the jail they demolished the *Index* office. The fight continued until fourteen of the rioters were killed and thirty-five wounded. Only one citizen, Mr Armstrong, was killed. Mr Freeman, editor of the *Index*, against whom the rioters were incensed on account of the support given by him to the Vigilance Committee, was seized by the rioters, who demanded the names of those who hanged their friends. "Hang him!" "Shoot him!" they cried. "Death to the chief of the vigs!" But escaping through a saloon, Freeman made his way to Fort Bridger, whence troops were despatched and the riot quelled.

A pedler was robbed of some jewelry, and another person of a trunk. Suspicion fell on three ill-looking loafers, whom a company of citizens tracked to their rendezvous, where part of the plunder was found and identified. One of the trio escaped; the other two after trial were hanged at North Platte, March 1870 being about the date of their exit.

Three horse-thieves, Lewis Curry, James Hall, and A. J. Allen, were caught near Deadwood, Dakota, in June 1877 with two horses, stolen from the stage company, in their possession. The men were incarcerated at Rapid City, but at night the jail was broken open and the three thieves hanged by the people. At

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Leavenworth, Kansas, in August of this same year Robert Scruggs was executed by the people for killing Jasper Oliphant and Mr Graff under very aggravating circumstances.

From the mountains and valleys to Huérfano, Colorado, in July 1877 came seventy-five men, who seized Marcos Gonzalez while on trial for the murder of the Browns, husband and wife, at a rancho near La Veta, and hanged him to a telegraph pole. During the progress of the trial the guilt of the prisoner had been established beyond a doubt, and the patience of the people being overcome by their wrath, they rose up and terminated proceedings arbitrarily.

For fifteen years prior to 1877 there had existed in north-western Illinois, south-western Iowa, and north-eastern Missouri a secret order, with numerous branches, known as the Anti-Horse-thief Association. It was no part of its purpose, except in cases of apparent necessity, to quarrel with the law; at the same time it did not profess very great respect for an institution which failed to accomplish the purposes for which it was created. Spreading into Kansas and Nebraska, the organization became a great power, with its lodges and its annual meetings, and all the paraphernalia for the detection and extinguishing of crime, not alone such as its name indicated, but of all kinds of robbery and murder. It was composed almost exclusively of respectable farmers, who stood ready, to the number of eight thousand, to hunt rascality to the death.

Many of the outrages in early times on emigrant stages and overland trains were charged to the Indians when in reality they were committed by bands of outlaws.

Troops stationed at the respective forts throughout that bleak interior were by no means fit to cope with these desperate characters. Like too many of our government servants, they were lazy, careless, indifferent, and stupid; laborious days and sleepless nights

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were less attractive than comfortable quarters and regular potations. There was little glory in catching; besides, the soldiers were no match for them, either in activity or intelligence. If sheriffs cannot catch rogues, assuredly soldiers cannot. In mechanical slaughterings soldiers do very well; if well trained, they have not intelligence and will sufficient to flee danger when they see it. This is all as it should be for posts, to shoot and be shot at; but as detectives they are of little value.

Emigrants in crossing the plains were accustomed to travel in parties of greater or lesser magnitude for mutual protection. Stages frequently carried a guard of soldiers, who, together with the armed passengers, generally succeeded in intimidating attack. Under such circumstances it required a larger force than was usually found in one company of marauders successfully to rob a stage; nevertheless hundreds of stages were robbed and hundreds of emigrants were killed by these border desperadoes during the years of ox-team and stage travel.

With railroads came more refined robberies. There was the gentlemanly pick-pocket in the 'sleeper' and the cut-purse in the 'smoker;' three-card monte men entertained the passengers and added variety to the gambling games ordinarily played. The large freight traffic led to a new system of pillage, and it was found necessary for servants of the railroad companies and others to organize, and the Rocky Mountain Detective Association of 1876 was the result of this necessity. In January 1877 at Kit Carson an important arrest was made and a gang broken up which for the past year had been pillaging the trains of the Kansas Pacific Company. Not only did they break into freight trains, and abstract groceries and dry-goods, but they also stole from the cattle-cars horses and mules. A large quantity of their plunder was on this occasion discovered, and some fourteen persons taken into custody.

The affair of the brothers James—Frank and Jesse—

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in Missouri, in some respects exceeds any occurrence of the kind on the Pacific coast. Beginning their career of crime at the ages of eighteen and sixteen respectively, as members of a guerilla band during the civil war, they were soon at the head of a gang waging war on its own account. After keeping the states of Missouri and Kentucky in a state of fear for five years, they escaped the several parties organized for their capture, and came to California and spent six months at the rancho of a relative at Paso Robles, recovering from their wounds. Returning to Missouri, killing three or four men at Battle Mountain, Nevada, on their way, they gathered their retainers and spread yet greater terror on every side. Every county organized a party for the capture, and large rewards were offered; but it was not until after negotiations by the authorities with one of James' band that anything was effected. In his own house at St Joseph, Missouri, in April 1882 Jesse James was shot to death by Robert Ford, who was tried for the murder, pleaded guilty, sentenced to be hanged, and was thereupon immediately pardoned by the governor and given a reward of fifty thousand dollars.

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CHAPTER XXXVI.

THE POPULAR TRIBUNALS OF ARIZONA, NEW MEXICO, AND MEXICO.

Der blinde, unbeholfene Koloss, der mit plumpen Knochen anfangs Gepolter macht, Hohes und Niederes, Nahes und Fernes mit gähnendem Rachen zu verschlingen droht, und zuletzt—über Zwirnsfäden stolpert?

Schiller.

JUSTICE along the boundary line between Mexico and the United States was a scarce commodity in early times, and it is only by way of comparison that the mention of that locality has any value in this connection. The warlike and predatory tribes that infested those parts gave the thinly scattered settlers enough to do to keep their lives and property from the natives. They were border ruffians and white desperadoes who preyed alternately upon savage and civilized as best suited time and convenience; but these were killed by their enemies as one kills a wild beast when attacked, and little more was thought of it.

The southern overland stage and emigrant travel first attracted desperadoes along the line. Station-keepers were killed and plundered, and horses stolen by Mexicans and Apaches. As settlers began to occupy attractive spots and gather round them a little property, vultures white and dusky disputed for the prey. There were men enough to steal the moment there was anything to be stolen. Besides the migratory border ruffian, there were organized bands roaming throughout the entire region of Sonora, southern California, and such parts of Arizona as

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offered plunder. One of these pitched camp in 1851 on the Colorado where now is Fort Yuma. There were between thirty and forty in this gang, and as this was before the establishment of the fort, they had things all their own way. Woe betide the luckless emigrant who fell into their hands. After having travelled a thousand weary miles, after having endured privations and sufferings indescribable, the attacks of savages, the buffetings of sand-laden winds, hunger, thirst, and sickness, this final scourge finished many of them.

After a sojourn here of several months some of the band began to tire of it. Times were too tame; the country was too poor for them. The road was too straight to perdition to encourage increase of travel. Sometimes there would not pass anything fit to rob for a fortnight; and these villains actually began to be ashamed of themselves, thirty and more of them sitting there and doing the work of about three.

Their leader, Glantan, was of that opinion; at all events he wanted the others to go, and encouraged them in the thought. He had a little scheme of his own which he proposed to work out, provided he did not have to share the profits with too many. He was a first-class buccaneer, a *chef-d'œuvre* of the devil, this Glantan. His plan was to start a ferry across the Colorado after the others had gone, and he did it. Then he took toll of whatever came that way. Charon was a sympathetic saint beside him. His charge for crossing was whatever the traveller had that he wanted; and the charge was the same whether the traveller crossed or not. One of his rules was never to rob a man until after he had crossed and had paid the ferriage, otherwise that would be robbing the ferry.

Early in 1852 an opposition ferry was started below Glantan's. What audacity! What villainy! True, the competition was fair; the business was conducted

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on the same economical principles, chief among which was never to kill a man after robbing him unless the interests of the business seemed to demand it, the idea being that if all the men were killed there would be none left to rob. The new proprietor was a discharged soldier who had been living for several years with the Yumas. Seeing how well Glantan was doing, how easily he amassed property, the honest soldier and the simple-minded savages could not resist the temptation. Together they built the ferry and agreed upon the toll; the Yumas were to have the patron's clothes, and the soldier his money. The business was very profitable, but it interfered with Glantan's schemes, and he determined to close out his neighbor's business. Accordingly, with his usual demoniacal impudence, he went to his rival's house, and after a few friendly words deliberately drew his revolver and shot him dead. The Yumas retaliated by going to Glantan's encampment and killing him and all his band save two.

An agreement having been made between the United States and Mexico for the establishment of Fort Yuma, General Heintzelman arrived shortly after the massacre of Glantan's band with two companies of United States troops, and fulfilled the agreement. In 1853 one Hartshorn obtained a contract from the government for carrying freight to the mouth of the Colorado River. Captains Wilcox and Johnson became connected with him in the business, the result being the opening of a line of ocean and river steamers. In 1854 a store was opened on the east side of the river for the soldiers at Fort Yuma. Gradually small adobe houses were built around the store, enclosed by the rudest of brush fences, until the place assumed sufficient importance to be dignified with the name of Arizona City.

In January 1861 a Texan named Mateo, of Spanish descent, stopped one night at the camp of two woodchoppers, on the Colorado River, where he asked for

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food and to be accommodated for the night: a request cheerfully complied with. In the night he arose, and taking an axe killed both the men. Then he secured the effects which he sought, and placed them in a skiff, with the clothes which he had stripped from the men whom he had murdered, and whose bodies he threw into the water. Jumping into the skiff, he pushed down the river, feeling that his detection was a most improbable thing. The following day some Indians visited the wood-choppers' camp and at once suspected foul play. Fort Yuma was on the opposite side of the river, in that vicinity, where information of their suspicions was at once brought by the Indians. Soldiers sent in quest of the murderer discovered Mateo and handed him over to the citizens, who summarily executed him. Mateo was well known in Los Angeles, having been employed as a teamster between that place and San Pedro for some months.

It was an easy and not uncommon thing for American renegades to cross the frontier, alight on a hacienda, murder the keepers, and drive the stock across the line into United States territory. Again a Mexican would engage his services to an American farmer, gain his confidence, and at the proper time his compadres would appear, kill the people, plunder the premises, and flee into Mexico. Probably the greatest depredations were committed along the Texan side of the upper Rio Grande, where were pastured countless herds of cattle, guarded by a few men, the owners living at a distance from them. Early in 1872 it was stated in congress that in Tamaulipas, Nuevo Leon, and Coahuila, cattle bearing Texan brands were sold cheaper than in Texas, it costing less to steal than to raise them. Moonlight nights were generally selected by cattle banditti, who avoided as much as possible encounters with the owners, though upon occasion they did not hesitate to murder.

While the people of the United States were urging the bitterest complaints against Mexico, scarcely any

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attention was paid to the punishment of crime on the Texan side of the Rio Grande. It was stated that up to the autumn of 1877, notwithstanding the fearful prevalence of murder in that locality, not a single legal conviction or execution had taken place. Both people and property were too erratic in their habits. A drover with his stock would be here one day and a hundred miles hence a week after. Only nomadic justice and drum-head law could follow crime in such a society.

By stipulation of the extradition treaty between Mexico and the United States of the 11th of April 1881, neither of the contracting parties were bound to make delivery of their citizens to the other; so that Sonorans could kill and rob in Arizona, and Arizonians in Sonora, and escaping over the line sit down quietly and snap their fingers in the face of justice. On the 24th of December 1870 three men, Reid, Lytle, and Olliver, were murdered at Mission Camp by three Mexicans, who immediately escaped to Sonora. The 2d of January following, Governor Safford sent an agent for them. They were found without difficulty, but the governor of Sonora, Pesqueira, declined to give them up, and referred the matter to the secretary of state, who issued a circular to all prefects to have the criminals arrested if found, but not to deliver them out of their hands.

A man named Baker, living at Blue Water Station, in Arizona, drove a stage between that place and Tucson. He was a peaceable citizen, well and favorably known. On the night of the 21st of December 1871 his home was entered by Mexicans, and Baker, with all his family, massacred. The murder was discovered a few days later by a traveller, who, entering the house, saw the remains of Mr and Mrs Baker, their little son, and an infant. Immediately upon reporting the case a reward of one thousand dollars was offered for the detection of the ruffians, but the case was abandoned upon hearing that the

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Mexicans had reached Sonora and were under the protection of the Mexican government.

On one occasion Governor McCormick, in speaking of the border troubles, remarked that when the Blue Water and Mission Camp murders were committed he reported the same to the authorities at Washington, saying that should such things continue there were strong probabilities that an armed force would invade Mexico and retaliate. The matter was then brought before the Mexican government, and the reply was that they were unable to guard their frontier, and that they could not be held responsible for the acts of their people across the border.

John H. Tatman was killed at Tucson in March 1867. He was for several years resident of Arizona, and at one time a member of the California legislature from Mariposa County. It was rumored that in a gambling dispute he killed a soldier, and that his own life was taken in revenge by the comrades of the murdered man.

Says the Arizona *Miner* of the 14th of January 1871 on the state of affairs at that time:

"The alarming frequency of deeds of violence in our community, and the tardiness with which justice is meted out, will, we fear, judging from the ominous mutterings of the people, culminate in a vigilance committee, the self-constituted arbiters of justice so common to the frontier, or wherever laws are not promptly and strictly enforced. Although society has been outraged, and murder and homicide perpetrated with unprecedented and reckless indifference by lawless and desperate men, yet we hope the necessity for a vigilance committee, the existence of which all law-abiding citizens must ever deprecate, may not arise."

The futile appeals made to both the Mexican and American governments for protection, and the prolonged delay in an adjustment of difficulties, compelled the citizens to avenge their own wrongs or to submit unprotected to continued outrages.

A station-keeper named William McFarland, an honest and respected man, employed at Sacaton, on the Tucson road, in March 1872 had occasion to go

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through Florence and Sanford to Gándara's rancho, after leaving which he mysteriously disappeared. Search was made, and a reward of twelve hundred dollars offered for information which should lead to a solution of the mystery. The massacre of the Baker family, previously mentioned, and many other murders, stimulated the people to action. Accordingly a large party of Americans went to Gándara's to make investigations concerning the disappearance of McFarland. Upon ascertaining that Gandara was at home, Bodel, one of the party, started to go into the house, when Gándara accosted him with "*Adios!*" and drawing a concealed weapon killed him. Gándara then undertook to escape, but was riddled with balls within twenty feet of his house. The Americans returned to Sanford breathing vengeance. On the following day, Sunday, they started in pursuit of Manuel Reyes, who had threatened to kill four Americans in revenge for the death of a comrade. Reyes took refuge in a house where there were several women and children. At an early hour a crowd collected about the place and ordered all the inmates but Reyes to leave the house. As soon as the order was obeyed an onslaught was made, and amid general shooting Reyes was killed. An hour or two before, Aguilar, another Mexican, was shot from his horse. Fears were entertained of a general uprising of the Mexicans, and places of business in Sanford and Florence were closed, the citizens holding themselves in readiness to act if necessary. Governor Safford soon after made his appearance; a body of troops was stationed in the vicinity, and peace was finally restored. McFarland's body was shortly afterward found buried a few miles from Gándara's.

King S. Woolsey, whose rancho was at Stanwix Station, had a Mexican boy, whom he had brought up with the kindness of a father. A Mexican desperado formerly in his employ met the boy one day and told him he was going to the rancho to kill Woolsey. The boy replied that he would have to kill him first; and

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after some further discussion the man did shoot the boy so that he died. Mexicans in Woolsey's employ caught the murderer and determined to take his life. He was guarded by his countrymen during the night. Woolsey advised them to act calmly. On the following day, August 8, 1872, the boy was buried, and the man led out and shot beside the boy's grave.

At Kenyon Station, on the Yuma road, Edward Lumley was killed on the 18th of August 1873 by Lúcas Lugas and Manuel Subiate. He was beaten, stabbed, and shot; and the frequency and brutality of these outrages induced extreme measures for the arrest of the guilty Mexicans. On the 31st of the month Lugas was found in a thick underbrush, where he was shot after a vain attempt to kill his pursuers. Subiate was also captured the same day and placed in the Yuma County jail. His denial of complicity in the murder was rebutted by strong circumstantial evidence, as he was on one of Moore and Carr's stage horses taken from Kenyon Station, and had the clothing and dog of Lugas with him. On the 8th of August four men were hanged for murders committed the previous day. This prompt and determined action of the people was necessary to save the lives and property of the scattered population.

A Mexican named Mariano Tisnado was arrested for cattle-stealing in Phœnix, Arizona, and strong suspicions were entertained that he was accessory to the recent murder of Mr Griffin. It was announced that his trial would take place the 3d of July 1873. Early that morning there was an unusual influx of farmers coming from every direction, well armed, quiet, and resolute. At six o'clock they assembled at the court-house square. Half an hour later a stranger, just arrived, observing several groups of people talking on the street-corners, stepped up to one of them and inquired, "What is the excitement?" "Nothing," was the reply, "it's all over now," at the same time pointing significantly to Monihon's corral. The inter-

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locutor walked to the place indicated, and there saw the body of Mariano Tisnado suspended from the gate of Monihon and Starrar's corral, on Cortés street. The farmers had executed Tisnado, as they feared that the result of his trial would be his acquittal.

About midnight on the 3d of August 1873 a Mexican couple, Vicente Hernandez and his wife, were murdered in their home at Tucson with knives and clubs by Leonardo Córdoba, Clemente Lopez, and Jesus Saguaripa. The murderers were arrested on the following day, and a confession obtained from Córdoba acknowledging the participation of each in the deed. He also disclosed the place where the plunder was buried. The following day the funeral occurred, and so indignant were the people that after the services they convened on the court-house plaza and advised as to the course to be pursued with the murderers. The confession made by Córdoba was read in Spanish and in English to the assembly, and an expression of the meeting called for. The unanimous demand was that the murderers should be executed at once. There had been much to aggravate the people in the disregard of justice, particularly in letting murderers go unpunished. At the March session of the court two noted criminals were given their freedom, though it was well known they had taken the lives of innocent men. There was in the jail at the time of the present excitement another murderer, John Willis by name, who it was determined should be hanged with the three Mexicans. Accordingly the meeting adjourned until the following morning, August 8th, when at an early hour the jail was surrounded and the prisoners demanded. In the mean time two forked posts were planted in front of the jail door and a pole placed on them. Four ropes with nooses were then suspended from the pole. A Catholic priest was summoned and allowed sufficient time for his ministrations. The prisoners were then led forth and hanged. The report of the inquest is interesting, as

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showing the feeling entertained by the community at the time:

"We, the undersigned, the jurors summoned to appear before Solomon Warner, the coroner of the county of Pima, at Tucson, on the 8th day of August 1873, to inquire into the cause of the death of John Willis, Leonard Córdoba, Clement Lopez, and Jesus Saguaripa, find that they came to their deaths on the 8th day of August 1873, about 11:30 o'clock in the morning, in the court-house plaza, in the town of Tucson, by hanging; and we further find that said hanging was committed by the people of Tucson *en masse;* and we do further say that, in view of the terrible and bloody murders which were committed by the three Mexicans named above, and the tardiness with which justice was being meted out to John Willis, a murderer, the extreme measures taken by our fellow-citizens this morning in vindication of their lives, their property, and the peace and good order of society, while it is to be regretted and deplored that such extreme measures were necessary, seem to have been the inevitable results of allowing criminals to escape the penalties of their crimes."

The grand jury in October spoke of this action of the people as having been taken at "a mass meeting of the citizens of the town of Tucson, numbering several hundred, and composed for the most part of the best and most influential citizens of the town. The hanging was done *en masse*, calmly and deliberately, believing it was for the best interests of the community at large. The verdict of the coroner's jury held on the day of the hanging accurately expresses the sense of a very large majority of our most substantial, peaceable, and law-abiding citizens."

The man John Willis, who was executed with the Mexicans, is credited with the following sanguinary exploit: One night in November 1872, at Adamsville, Arizona, Colonel Kennedy was slain by John Rogers. The body lay yet unburied when Bob Swoope heard of it. Bob was at Sanford at the time, and being a warm personal friend of the colonel, he was deeply moved on receipt of the sad intelligence. To have killed Rogers, even though he were a descendant of the martyr, would have afforded him some relief; but this being impracticable, he took a drink. Still feeling badly, he took another drink, which opened the way for a third, and soon Bob was sorrowfully drunk.

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"I will go to that funeral if it kills me," said he to John Willis, whom he met while in this ultra-emotional mood.

"I reckon not," replied Willis.

"I tell you I shall go!" exclaimed Bob, waxing warm.

"Oh no you won't!" retorted Willis.

"I'll bet I do!" cried Bob, more warmly.

"I'll bet you don't!" said Willis, as he drew a revolver and shot his friend through the heart. Willis was arrested and indicted in March 1873, but his trial was postponed until May. On the 24th of the month the jury pronounced a verdict of guilty of murder in the first degree, but the sentence of the judge that Willis should be hanged was issued without naming the day for his execution, whereupon the case was appealed to the supreme court. The grand jury, reporting upon the affair, says: "After an exhaustive, fair, and impartial trial of about one week's duration, at great cost to the county and some sacrifice to the trial jurors, John Willis was found guilty of murder, and as his case had been appealed to the supreme court upon some trivial excuse, a general belief prevailed that it would end as did that of Anthony Dorman and others, and that he would eventually be set free or make his escape, to further prey upon the people, as has been the case in all other cases of murder since Tucson has been under the jurisdiction of the civil law." This is a continuation of the report previously quoted, exculpating those who at last assumed the responsibility of ridding the community of four dangerous characters.

G. R. Whisler, a man fifty years of age, keeper of Burke Station, on the Lower Gila, was murdered at noon on the 7th of July 1874 by a Mexican named Ventura Nunez. Threats had been made by border bandits to murder all the station-keepers from Gila Bend to Yuma, and the discovery of Whisler's violent death excited intense apprehension. Governor Saf-

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ford inaugurated a plan, which worked very successfully, authorizing responsible parties to offer suitable rewards for the apprehension of criminals. Accordingly Woolsey, of Stanwix Station, nine miles below Burke, immediately offered five hundred dollars for Ventura Nuñez, dead or alive. Three men started in pursuit, and overtook the Mexican, who, having ridden down his own and a stage horse, was on foot. He was captured near the copper mines, sixty miles south of Burke Station, after having about twenty shots fired at him, one of which penetrated his leg. He was searched and some of the stolen property found; he acknowledged the crime, and was brought back on the 11th of December to the scene of the murder, where there was a large assembly of men from the various stations, who took the man from the authorities and hanged him. This decisive action, it was felt, would be efficacious in deterring these ruffians from the commission of such crimes, for love of life is strong within them, though they hold in light esteem the lives of others.

Oliver P. McCoy on the 3d of August 1877 near Safford, Arizona, discharged both barrels of a shotgun loaded with fine and buck shot into the body of J. P. Lewis, who was attending to some irrigating, killing him almost instantly. McCoy gave himself up, and was examined by a justice, before whom he acknowledged the crime. Next day he was to have been sent to Tucson, but that night he was taken by the people and hanged.

Nothing was created in vain; even desperadoes serve a good purpose sometimes. Along the American border during the past century they have done far more toward the execution of justice in killing each other than was done by all the law courts in the land. What a godsend it is to a community for five or six of their ruffians to kill each other, leaving only one survivor for the people to hang. On the morning of the 18th of December 1877, at Hackberry,

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Arizona, Bob White attempted to shoot Frank McNiel, a stranger, after a few angry words over a trivial matter. McNiel disarmed White, and led him into a saloon to his friends, as he had no wish to quarrel with the fellow. Shortly afterward Charlie Rice, one of White's friends, approached McNiel and shot him, causing his death. The citizens turned out *en masse*, and capturing Rice, hanged him. In the mean time White, attempting to escape, was pierced with bullets and fell dead.

L. V. Grimes and C. B. Hawley, confessing to certain robberies and murders, were hanged at Globe, Arizona, by thirty citizens, early in the morning of the 24th of August 1882.

The greatest sufferers from the lax administration of justice in New Mexico were foreigners, especially citizens of the United States, against whom there was no little prejudice.

Notwithstanding the general perversion of justice in New Mexico, capital crimes were rare, though petty thefts were frequent. Doubtless fear of the savages prevented the highway robbery which so long and so mercilessly oppressed many parts of Mexico. To leave an article exposed was not safe for a moment, and though thievery was so common it was difficult to catch rogues, for few would inform.

Very different was the management of affairs under royal *régime*, as the following incident testifies: In 1815 a soldier named Cora stole a few articles of no great value from the public storehouse at Santa Fé, then in charge of Lieutenant Don Valentin Moreno. Cora was arrested, tried, convicted, and sentenced to be shot; nor did the solicitations of some of the most influential men in the province save him from death.

The insurrection of 1837 was something more than an Indian outbreak. The pueblo natives, semi-civilized when first found, were but little lower in the

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scale of humanity than the Mexicans themselves. The territorial government, by act of the Mexican congress, had just been erected into a departmental government, and Perez, in January 1837, appointed governor. His rule was regarded by the Pueblos as arbitrary and unjust. Among other oppressive measures, a tax had been laid on tobacco; and further contemplated impositions were feared.

In July 1837 the Pueblos rose in rebellion, San Juan taking the lead. About the beginning of August a great multitude gathered at La Cañada, among whom were the chiefs and principal warriors of the Pueblos. Perez issued orders for the mustering of the militia, but not more than one hundred and fifty could be found. With these he marched against the insurgents, but was repulsed, many of his force going over to the enemy. With about twenty-five officials and friends he fled southward, fearing to return to Santa Fé; but they were overtaken and driven back to the suburbs of the city, where Perez was killed. Jesus María Alarid, secretary of state, and Ramon Abred, prefect of Rio Arriba, were also slain and their bodies mutilated.

Anarchy followed. At a mass meeting held at Santa Fé, resolutions opposed to the Perez policy were passed and a provisional government adopted. Two thousand insurgents pitched their camp before the capital the 9th of August, and the horrors of a *saquéo* were feared, but no outrage was attempted. Many of the insurgents remained in and about the city for two days, during which time one of their leaders, José Gonzalez of Taos, honest but unlearned, was chosen governor, and Antonio Domingo Lopez lieutenant-governor.

At Tomé on the 8th of September one Manuel Armijo pronounced against the insurgents. Men gathered to his standard; and after having proclaimed himself governor, he marched, the 13th of September, with a large body against the insurgents,

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primarily the Pueblos, but now increased by discontented white men to a formidable organization. Gonzalez prepared for battle, but persuaded by a priest to capitulate, he was first confined, and on the 25th of January 1838 was hanged at Santa Cruz with Lopez. Armijo for his service and successes was confirmed as governor by the authorities at the City of Mexico.

This Armijo, in common with rulers and magistrates of his day, employed singular methods in determining guilt. In January 1840 two foreigners returning from the mines to Santa Fé had the misfortune to kill a Mexican lad by the accidental discharge of one of their guns. Carrying the body into town, they at once reported the circumstance to the authorities. The chief alcalde consulted with Armijo as to what should be done. After due deliberation and with a little gravity, although there had been no examination or form of trial, it was determined that the strangers should be imprisoned for murder and there kept until they should prove their innocence. In time the absurdity of the thing became apparent to the people, and their manifest disapprobation at length induced the judge and governor to give the men their liberty.

The manifestation of feeling against foreigners was frequent, such as the capture in 1841 of the Santa Fé expedition, the beating to death in open day of a dumb creole at Taos, the entering and robbing of Rowland's store by a mob led by the alcalde of San Miguel. At the same time no little excitement prevailed at Santa Fé, where an attack was made on the United States consul, Manuel Álvarez. Backed by a band of *sans-culottes*, one Martin, nephew and confidential agent of the governor, approached the consul's house with murderous intent. Drawing a large knife, he told the crowd to keep back until he called them; he entered the house secretly and attacked Álvarez, cutting him severely in the face. The consul

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narrowly escaped with his life, and the nephew was promoted for his pains.

During the spring of 1847 the Santa Fé roads were infested with Pawnees and Comanches, who fearlessly attacked the government trains, beat down the escorts, drove off the cattle, and often killed many people. One of these cases occurred near the Grand Arkansas on the 22d of June, when a large body of natives attacked a returning government train, overpowered the teamsters, and captured eighty yoke of oxen. Lieutenant Love's convoy, with three hundred thousand dollars in specie, was attacked four days after near the Arkansas by about five hundred native warriors, who took one hundred and fifty yoke of oxen. Pursued by twenty of Love's men, they led them into ambush and cut off their retreat. A fierce fight ensued, but the white men finally forced a passage and made good their retreat. The natives lost twenty-five killed and many wounded, while the killed and wounded of the white men numbered eleven.

On the 28th of June 1847 Lieutenant Brown and privates McClanahan and Quisenbury were sent with a Mexican guide in pursuit of some Mexicans who a day or two before had stolen the horses belonging to Captain Horine's troop near Las Vegas. After several days had elapsed without information from the party, it was conjectured that they had been murdered. This supposition seemed confirmed by a statement made to Major Edmondson by a Mexican lady, who affirmed that three Americans and one Mexican had been killed near Las Vegas and their bodies burned. Three Mexicans, whose appearance had excited suspicion, were brought into camp, and an attempt made to obtain information on the subject from them; as they would make no disclosures, one of them was hanged until nearly dead, when on being lowered the third time he admitted the truth of the Mexican lady's statement. Major Edmondson at once ordered a detachment of twenty-nine cavalry and thirty-three

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infantry with one howitzer to march at once on Las Vegas. A charge was made, in which ten Mexicans were killed, fifty taken prisoners, and the remainder driven from the place. Tried by drum-head court-martial at Santa Fé, sentence of death was pronounced upon six of the prisoners, and on the 3d of August in presence of the army they were executed.

After the defeat of the Mexicans, search was made for the remains of Lieutenant Brown and his companions. The body of the former was found concealed among the rocks; it had not been burned out of reverence for the cross which lay upon the breast. The ashes of the others were discovered, and their weapons and clothes found in different houses. The larger portion of the town was burned by the soldiers, as were also the mills belonging to the alcalde, who was known to have sanctioned the murder of Lieutenant Brown's party.

There were on the 19th of January 1847 two Pueblos confined in the prison at Taos, and, as their towns-people thought, unjustly. At all events they determined on their release, and a deputation was sent from their village, twelve miles away, to Taos to make the demand. Lee, the sheriff, saw the approaching storm and recommended tolerant measures, but the prefect, a Mexican, forbade him to release the prisoners. Thereupon the deputation killed both sheriff and prefect, and opened the prison doors.

The villagers then marched to the house of Governor Bent, who arose, dressed quickly, and sought to gain the street, but before he could escape he was shot. District-attorney Leal was likewise shot; also the son of Judge Baubien. The same day seven Americans were killed at the Arroyo Hondo, two at the Rio Colorado, and civil war ensued.

At the time of the murder of Governor Bent, general alarm spread through all that section of country. The outrages that preceded and followed

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added proportionate anxiety. A man of wealth and prominence named Turley was warned that his life was in danger. He listened fearlessly to the intimidation, his unsuspicious nature refusing to believe that malice could be cherished toward him. Generous with his wealth, he never refused a Mexican who applied to him for aid; the hungry were supplied from his granaries, and poverty was relieved by his bounty. Turley owned a mill and distillery adjoining his house. At the solicitation of his men they were permitted to fortify themselves against possible attack, their little garrison being composed of eight white men, Americans, French Canadians, and Englishmen, well supplied with arms and ammunition.

These precautionary measures were scarcely completed before a large force of Mexicans and Indians appeared and demanded Turley's surrender, at the same time guaranteeing the safety of his life. Turley refused to surrender his house or his men. A short consultation between the Mexicans followed this reply, and then they commenced an attack. Their force was composed of five hundred men, with numbers hourly increasing. Secreting themselves among bushes and crouching behind rocks, they kept up an incessant fire. The Americans had blockaded and loop-holed their windows, and with their rifles they now picked off every man who in the least exposed himself. Night brought quiet, but the next day the fight was vigorously renewed. In the mean time some of the Mexicans had gained possession of the stables separated but a few feet from the main building. An attempt was made to cross the narrow space, but when it was discovered Turley's men quickly prepared for them. A Pueblo chief attempted to cross, but a shot dropped him in the centre of the space. A warrior darted out to recover the body, but another shot stretched him beside his chief. Two others met a similar fate; at last three rushed to the spot, and had seized the body when three sharp cracks from as many rifles added

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their lifeless bodies to the number already stretched upon the ground.

Unerring aim had become a necessity, for their ammunition was much reduced. The attack was now renewed more fiercely; the assailants poured in a volley, and two of the defenders fell mortally wounded. A still greater danger now threatened them; the mills were discovered to be on fire, and the flames must inevitably communicate with their own building. Twice they succeeded in extinguishing the fire, only to see it break out elsewhere. Though the mill was but partially burned resistance was useless, but rather than surrender they determined if possible to effect their escape during the night.

At dusk John Albert and a companion, two of the besieged party, rushed suddenly from the building and discharged their rifles at the foe. Albert then threw himself upon the ground, and crawling beneath a fence, remained there until dark, when he started for the Greenhorn, undiscovered by the enemy, and reached the place in an exhausted condition. His companion was discovered, stabbed with knives and lances, and shot.

Turley succeeded in eluding the enemy and reached the mountains in safety. There he met a Mexican, who expressed great commiseration, and sympathizingly offered him assistance if he would remain concealed until his return from a certain place where he would go for horses. The Mexican then went directly to the mill and reported Turley's place of concealment. A party of Mexicans at once started out, found Turley, and shot him dead. The remainder of the number who had so valiantly defended Turley and his premises succeeded in reaching Santa Fé in safety. The mill was pillaged by the Mexicans, and a large amount of money taken.

At a fandango in Socorro some ruffians in 1851 killed Assistant-quartermaster Clark of the boundary commission, stabbing him with bowie-knives. An ar-

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rest was made of eight or ten persons thought to be implicated in the crime, who were tried before a jury composed of six Mexicans and six commissioners. The trial lasted two days, resulting in the conviction and execution of three of the criminals. A reward of four hundred dollars was offered for the arrest of Young, the leader of the band, who was soon captured, and after a trial and a full confession of his guilt was hanged upon the same tree which had been used for the execution of his accomplices.

Of all the towns of New Mexico none enjoyed a greater notoriety for low morality than Manzana, where about the year 1853 appeared to rendezvous desperate men and vile women of every description.

The following incident, illustrative of the cunning of the gentle savage, occurred at Fort Defiance in 1854. The Navajos had murdered a man near the fort, and at once an imperative order was sent them by Major Kendricks to deliver the murderer to him. After a little parleying, the chiefs saw that no compromise could be effected, and consented to the hanging of the murderer, only stipulating that they themselves should be permitted to execute him. This was allowed. At the hour of execution the troops were drawn up in line and witnessed the fulfilment of the agreement, as they supposed; but some time afterward the revelation was made that instead of the murderer a Mexican captive had been executed.

Among stock-raisers inhabiting the western territory the depredations of Comanche and other cattle-stealers were conducted on an extensive scale. It was estimated that one hundred thousand head of cattle had been stolen from the north-western part of Texas between 1853 and 1873 and that they had been sold in New Mexico. A rich stock-raiser in Palo Pinto having lost heavily in this way, followed the natives, and at great trouble and expense recovered several thousand head from New Mexico. He

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reported a great many persons in the territory as directly and indirectly abetting this traffic, by exchanging arms and clothing for stolen cattle. The commissioners of the Mexican frontier complained that cattle stolen from that country were also in New Mexico.

Great as was the sorrow of the times in these localities, when we read in the Galveston *News* of May 1875 that in three counties of Texas in a single day seventeen men were arbitrarily executed, we may hide our modest heads that our annals show so few such takings-off.

The cries of "Death to the Gringos!" and "Viva Mexico!" were raised by the Mexicans in the towns of Isleta and Saullizarco, on the Texan border, the 6th of October 1877. Four hundred armed Mexicans, one hundred of them from the Mexican side of the river, took possession of El Paso, Texas, claiming that territory as a part of Mexico. Judge Charles H. Howard was made prisoner by the mob and bound with ropes. The seizure of the officials of the entire county was effected. General Escobedo was tried at Brownsville, Texas, for violation of the United States neutrality laws, but was acquitted, as it could not be proved that the armed men in camp with him actually intended to invade Texas. Lieutenant-general Sheridan, in his annual report dated October 27th, giving a detailed account of border troubles, said that cattle ran loose by thousands on the American side of the river, and Mexicans and Indians used to come over and steal them.

Nowhere have I seen more boldly displayed the irony of Christian outlawry than on this Texan frontier, where drinking, gambling, cattle-stealing, duelling, prize-fighting, camp-meeting, highway-robbery, throat-cutting, promiscuous shooting, and psalm-singing are so simultaneously rampant, where representatives of Christ and Belial turn bruisers and batter one another in most ungodly fashion, where piety and infernal dis-

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cord are so indiscriminately mixed as almost to defy identification. Among specimens of nineteenth-century United States ignorance, of blind brutal bigotry, the sentiment contained in the following notice found nailed to a tree growing out of the holy soil of Texas, where a man was whipped in the name of Christianity, assuredly should be placed first: "This is to certify that on Saturday night, the 6th of October 1877, the Reverend Doctor Russell was called to see a mover's wife, camped at this place, and on the doctor's arrival three other men came out and captured him, and hit him a hundred licks with a leather strap, and let him loose on condition that he must not lecture or debate on infidelity any more in this country. Now a word to Nunnely, Posey, Marshall, and in fact to all the leading men of the infidel club: If any of you take his place we will burn you out of house and home, and hang you until you are dead. If any man in this county is injured on account of what has been done, we will burn you all out. We have got fifty men to back us. Gents, we mean business; infidelity has got to stop in this county as well as stealing."

Returning for a moment to California, as a fair and truthful historian I cannot close this volume without laying before the reader the credit side of law. We cannot deny that law does something; let us see what it accomplished during our earlier years, that the charge of prejudice may not lie at our door. In God's name let us have the truth. Let us frankly acknowledge our indebtedness to laws, law courts, judges, and lawyers, for what they have done and are doing for us.

But first let us glance at what the Hispano-Californians did before the institutions of the great republic were thrown over the country, and compare their doings with ours; for we are inclined to regard our ways superior to theirs.

The legal executions in California prior to 1847

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were as follows: First, under the Spanish administration of Felipe de Neve, at San Diego April 11, 1778, Aarán, Alcuirín, Achíl, and Taquaqui, Pamò chiefs guilty of a conspiracy against the lives of the whites, and who in consideration of future good conduct had in 1776 been pardoned after conviction of participation in the revolt of the previous year, were by order of Comandante Ortega shot to death. During the administration of Diego de Borica, at Santa Bárbara January 10, 1795, Ignacio Rochin, murderer, was shot to death by sentence of the *real audiencia* of Guadalajara. A woman who was his accomplice was sentenced to six years' domestic service without wages.

Under José de Joaquin de Arrillaga, at Santa Bárbara on the 11th of February 1801 José Antonio Rosas, native of Los Angeles, soldier of the Santa Bárbara presidial company, eighteen years of age, was condemned for the crime of bestiality with a mule on the 20th of June 1800. He was sentenced by the *auditor de guerra*, in accordance with royal ordinance, to be hanged till dead, and his body then to be burned with that of the beast. The sentence was confirmed by the viceroy. As there was no hangman at hand the young soldier was shot, and the sentence otherwise carried into effect.

Under Mexican rule, during the administration of Luis Antonio Argüello, at Monterey the 6th of February 1824, Pomponio, neophyte of San Francisco mission, a noted outlaw guilty of many murders, rapes, and robberies, was shot to death by order of court-martial. At La Purísima Concepcion, March 25, 1824, seven Indian rebels, Baltasar, Pacífico, Estévan, Gines, Antonio, Felipe, and José Andrés, were shot to death by order of the court-martial for the murder of Dolores Sepúlveda and three companions.

Under the administration of Manuel Victoria, at Monterey April 26, 1831, Atanasio, an Indian ser-

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vant eighteen years of age, was shot to death in accordance with the sentence of the *asesór*, confirmed by the governor, for stealing a gross of military buttons. He was suspected of having robbed the storehouse on various occasions, probably to the aggregate amount of two hundred and fifty dollars, otherwise his punishment for the theft of the buttons might have been less severe. José Sagarra, ex-privateersman of Buchard's expedition of 1818, and Simon Aguilar, Mexican servant, were shot to death in Monterey May 28, 1831, for stealing articles of insignificant value from the warehouse of Carmelo Mission. At San Francisco in 1831 Francisco Rubio, *alias* El Coyote, a soldier of the San Francisco presidial company, was shot to death for outrage and murder committed on a little girl. Shortly after his execution it was clearly proved, as some say, that he was innocent of the crime.

At Monterey April 7, 1840, Diego Féliz, soldier, was shot for the brutal assassination of his wife. He was executed by order of Castro, approved by the governor, three hours after he had committed the bloody deed. In March 1841 three Mexicans, Valencia, Linares, and Duarte, were under sentence of death at Los Angeles for robbing and murdering the German trader Nicholas Fink. Meanwhile the vagabond class had broken into and robbed a tavern, and committed other violent acts. Thirty-three citizens petitioned government for a prompt execution of the trio to serve as an example. On April 7th they were executed, a strong guard of citizens remaining under arms for three days to repress any outbreak in favor of the prisoners. Although the excitement was strong no disturbance occurred. It was through the exertions of foreign residents at Los Angeles that these men were brought to justice. They confessed their guilt in open court. The judge of the first instance condemned them to death, and Governor Alvarado approved the sentence, and ordered the comandante at Santa Bár-

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bara to carry the same into execution within three days after the receipt of the order. De Mofras says that the foreigners intimated to Alvarado that if the government did not execute the sentence the people would; but what this dogmatic Frenchman says on any subject must be taken *cum grano salis*.

The *juez de primera instancia*, Manuel Dominguez, informs the prefect of the second district that on the 7th of July 1842 Samuel Fagget was shot to death. Manuel Gonzalez, a Peruvian, and sacristan of the presidial chapel, was shot at Monterey July 27, 1842, for killing an Englishman. He was sentenced by the court of first instance; the sentence was confirmed by the superior tribunal, and its execution ordered by the governor.

During Pio Pico's administration Juan de Dios, an Indian, formerly neophyte of La Soledad Mission, murdered two women and a servant in the suburbs of Monterey. In the absence of all civil authorities, Alvarado, Comandante de la linea del Norte, submitted the matter to a *junta de oficiales*, and the murderer was shot to death July 13, 1845. Under the administration of R. B. Mason, Pedro Gomez, who had murdered his wife, was shot at Santa Cruz August 16, 1847, having been tried by the alcalde and a jury of twelve men.

Drop the curtain. Let a lively interlude be sounded; then raise it again.

It was a proud day for the law, the 10th of December 1852. True, it was only a Spaniard who was hanged, José Forin, and for the murder of a Spaniard, but then it was the first legal execution San Francisco had ever seen, and the young metropolis was very proud of it. High on Russian Hill the gallows was erected, on the topmost pinnacle, where all the town might witness the triumphant ceremony, though at the suggestion of certain ones who had no eye for the beautiful in public strangulation, the machine was moved westward over the hill a little way, so that the per-

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formance might be conducted somewhat more modestly. About half the town turned out; so new a thing it was for the law to punish a murderer. The poor prisoner thought it unfair to begin with him; the law had liberated so many hundreds of worse men; he thought the law was the friend of criminals, and though he protested his innocence to the last, the law was brave and hanged him up right manfully. It was a glorious sight! True, the poor fellow was a stranger, without money, friendless, and unable to speak the English language. I did not say that for these he was hanged; true, hundreds more deserving of his fate stood gaping by, thinking how awful it was, how righteous the law that punished him who sinned—and was caught at it. It was a happy sight, I say, this hanging of the moneyless, friendless Spanish stranger; it set so splendid an example to other poor friendless strangers of every nationality. Of course, to wealthy and respectable criminals the spectacle taught nothing; but they did not dislike it. Sweet to those who escape just punishment is the just punishment of others! It was a gala day in San Francisco, this 10th of December 1852. Russian Hill was thronged with a great concourse of people. The Marion Rifles and the California Guard were out, flaunting their gayest attire. The streets were lined with carriages; husbands brought thither their wives, and mothers their children, to witness the rare entertainment. Three or four clergymen with attendant interpreters assisted at the exodus of this soul; there must be an example, but let it be made *suaviter in modo*. Finally, with arms pinioned, legs bound, and black cap drawn over the face, a blow from a hatchet cut the rope that held in place the platform, and the friendless unfortunate dropped into eternity.

Not until a year and a half after was there another legal execution in San Francisco. This made punishment by law very infrequent where crime was so common—not a single legal execution during the first five

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years of law and government round Yerba Buena Cove, and then so long an interval without another warning. It was no wonder assassins regarded killing free to all. July 28, 1854, was the date of the second extreme example. William B. Shepherd worked for Henry C. Day, and was betrothed to his daughter. Day withholding his consent to the union, Shepherd stabbed him to death, and was hanged for it in a little valley near the Presidio, ten thousand persons being present as spectators. Another long interval, and early in 1856 we find Nicholas Graham hanging in the jail-yard for killing Joseph Brooks, a fireman on a bay steamboat. Nearly two years now elapsed before another legal execution, which was that of Henry F. N. Meuse for the murder of Peter Becker. December 10, 1858, was the date of this last punishment. The machinery now worked a little more evenly. Tipperary Bill, whose true name was William Morris, was hanged the 10th of June 1859 for the killing of Richard H. Doak. The 30th of September 1860 James Whitford was hanged at the county jail for the murder of Edward Sheridan. Then follow Frank Bonney and Albert Lee of the same year; John C. Clarkson in 1861; Barney Olwell and Antonio Sassovich, Thomas Byrnes, and Chung Wong in 1866; John Devine, surnamed The Chicken, and Charles A Russell in 1873; and Chin Mook Sow in 1877. Sixteen executions in thirty years, dating from 1847, the opening year of Yerba Buena's aspirations. These, with the four hangings by the Vigilance Committee of 1851, and four by that of 1856, comprise the catalogue. Millions of money had been paid by the citizens to keep running criminal courts and police regulations these thirty years, and hundreds of men were all the time at large whom the law pronounced guilty of death, and only sixteen capital punishments! Says the Sacramento *Union* of the 28th of May of the citizens composing the Committee of 1856: "They have calmly stood by and seen and heard of

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some fourteen hundred murders in San Francisco in six years, and only three of the murderers hung, under the law, and one of those was a friendless Mexican."

I have given in this volume many examples of Popular Tribunals, but the half has not been told. It is safe to say that thus far in the history of these Pacific States far more has been done toward righting wrongs and administering justice outside the pale of law than within it.

Out of five hundred and thirty-five homicides which occurred in California during the year 1855 there were but seven legal executions and forty-nine informal ones. Of the latter ten occurred in the month of January, not one of which would have been consummated if left to the machinery of law. So it was in Nevada ten years later: to one hundred and fifty homicides there were but two legal executions. It was the Augustan age of murder.

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